

DRAUGHTS

OF SUCH

BILLS,

AS HAVE BEEN PREPARED BY THE COMMITTEE APPOINTED UNDER
THE ACT, INTITULED, "AN ACT, TO AMEND AN ACT, IN-
"TITULED, AN ACT, CONCERNING A NEW EDITION OF
"THE LAWS OF THIS COMMONWEALTH, REFORMING
"CERTAIN RULES OF LEGAL CONSTRUCTION,
"AND PROVIDING FOR THE DUE PUBLICATI-
"ON OF THE LAWS AND RESOLUTIONS
"OF EACH SESSION," PASSED ON THE
TWENTY-THIRD DAY OF DE-
CEMBER, IN THE YEAR
ONE THOUSAND SEVEN
HUNDRED AND
NINETY,



Virginia.

ON THE SUBJECTS OF THOSE LAWS WHICH FROM THEIR MUL-
TIPPLICITY REQUIRE TO BE REDUCED
INTO SINGLE ACTS.

TRANSMITTED TO THE EXECUTIVE ON THE TWENTY-SIXTH OF
MARCH, ONE THOUSAND SEVEN HUNDRED AND NINETY-TWO,
IN ORDER TO BE PRINTED.

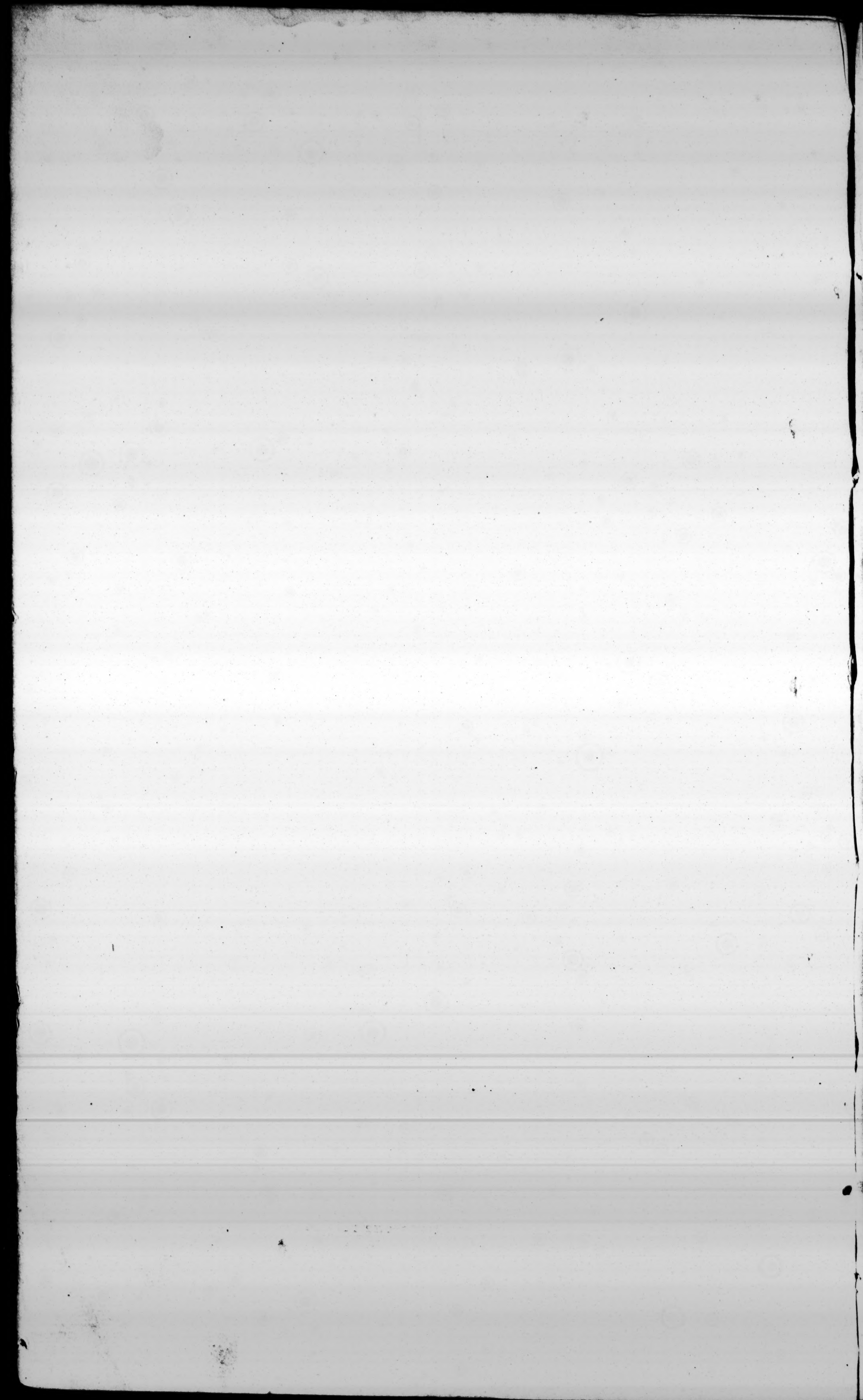


R I C H M O N D:

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M,DCC,XCII.



Extract of a letter from the Committee of Revisors, to the Governor.

RICHMOND, June 23, 1792.

S I R,

THE Committee appointed under the act, intituled, "*An act to amend an act, intituled an act, concerning a new Edition of the Laws of this Commonwealth, reforming certain rules of legal construction, and providing for the due publication of the Laws and Resolutions of each session,*" passed on the twenty-third day of December, in the year one thousand seven hundred and ninety, have the honor to inform your Excellency, that the Bills transmitted by them to the Executive on the twenty-sixth of March last, have been printed, and are ready to be transmitted to the several counties, should the Executive think proper to send them out without waiting for the remainder, which they flatter themselves will be ready for the press in a few weeks.

In taking up the Laws which from their multiplicity require to be reduced into single acts, the attention of the Committee was directed to such subjects as appeared to be of the most immediate necessity and importance. —and they have the satisfaction to hope that there are very few of that nature, which they have not acted on.

Among the Bills printed, a few will be found that are drawn upon the subject of such British statutes as were deemed proper to be introduced into our own Code of Laws.

REVISED BILLS, &c.

A BILL for reducing into one, the several acts prescribing the oath of fidelity and oaths of public officers.

SECTION I. **B**E it enacted by the General Assembly, That every person by law required to give assurance of fidelity, shall for that purpose, take an oath in this form: " I do declare myself a citizen of the commonwealth of Virginia ; I relinquish and renounce the character of subject or citizen of any prince or other state whatsoever, and abjure all allegiance which may be claimed by such prince or other state : And I do swear to be faithful and true to the said commonwealth of Virginia, so long as I continue a citizen thereof. SO HELP ME GOD." 1779. ch. 5.

SEC. II. NO person shall have power to act in any office, Legislative, Executive, or Judiciary, before he shall have given such assurance, and shall moreover have taken such of the following oaths, if another be not specially prescribed, as is adapted to his case. 1779. ch. 5. s. 2.

SEC. III. THE oath of a Governor: " I elected Governor of Virginia, by the representatives thereof, do solemnly promise and swear, that I will to the best of my skill and judgment, execute the said office, diligently and faithfully, according to law, without favor, affection or partiality, that I will to the utmost of my power, protect the citizens of the commonwealth in the secure enjoyment of all their rights, franchises, and privileges, and will constantly endeavour that the laws and ordinances of the commonwealth be duly observed ; and that law and justice, in mercy, be executed in all judgments ; and lastly, that I will peaceably and quietly resign the government to which I have been elected, at the several periods to which my continuance in the said office is or shall be limited by law and the constitution. SO HELP ME GOD." 1779. ch. 5. s. 2.

SEC. IV. THE oath of a Privy Councillor: " I elected one of the Privy Council of Virginia by the representatives thereof, do solemnly promise and swear, that I will, to the best of my skill and judgment, execute the said office diligently and faithfully, according to law, without favor, affection, or partiality, and that I will keep secret such proceedings and orders of the Privy Council, as the Board shall direct to be concealed, unless the same be called for by either House of General Assembly: SO HELP ME GOD." 1779. ch. 5. s. 4.

SECT. V. THE oath of one not specially directed to take any other: " I do solemnly promise and swear, that I will faithfully, impartially, and justly perform the duty of my office of according to the best of my skill and judgment. SO HELP ME GOD." The said oaths to be taken by a 1779. ch. 5. s. 5.

member or officer of either House of General Assembly, shall be administered by any member of the Privy Council, and the taking thereof shall be certified, to the clerk of such House; and the said oaths to be taken by any other person if it be not otherwise directed, shall be administered in some court of record or by any judge or justice thereof, and the taking thereof shall be recorded in the said court.

1786. ch. 56. SEC. VI. EVERY counsel or attorney before he be permitted to practise in any court within this commonwealth shall take the following oath before such court. " I do swear that I will honestly
" demean myself in the practice of a counsel, attorney or proctor,
" and will execute my office to the best of my knowledge and ability."

1779. ch. 7. SEC. VII. ANY person refusing to take an oath, and declaring religious scruples to be the true and only reason of such refusal, if he will use the solemnity and ceremony, and repeat the formulary observed on similar occasions, by those of the church or religious society he professeth himself to be a member of or to join in communion with, shall thereupon be deemed as competent a witness, or to be as duly qualified to execute an office, or perform any other act, to the sanction whereof an oath is or shall be required by law, and shall be subject to the same rules, derive the same advantages, or incur the same penalties or forfeitures, as if he had sworn. In presentments, indictments, inquisitions, verdicts, examinations, or other forms, the words " upon their oath" or " sworn" may be left out, and instead of them " in solemn form" or " charged" which ever may be adapted to the case, may be inserted; but if the ancient form be adhered to, it shall not be adjudged error.

SEC. VIII. ALL and every act and acts, clauses and parts of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

A BILL for ascertaining the salaries to the Officers of civil Government.

Nov. 1781. ch. 33. SECTION I. **B**E it enacted, That the several officers herein after mentioned, shall receive for their salaries in quarterly payments, after the same shall been audited according to law: The Governor or Chief Magistrate, the sum of eight hundred pounds: 1785. ch. 16. The members of the Privy Council, the sum of two thousand pounds, to be divided amongst them according to their attendance: The judges of the Court of Appeals, the judge of the High Court of Chancery, and the judges of the General Court, each, the sum of three hundred pounds: The Attorney General, the sum of two hundred pounds per annum: The Auditor of Public Accounts, the sum of three hundred pounds per annum: The Speaker of the Senate, the sum of twenty shillings per day, during each session of Assembly, including his daily pay: The Speaker of the House of Delegates, the sum of forty shillings per day, in like manner: The clerk of the General Court, for his ex officio services, the sum of fifty pounds per annum: The Register of the land-office and his clerks, the sum of four hundred pounds per annum: The Treasurer, the sum of five 1786. ch. 33. hundred pounds per annum: The first clerk of the Treasury, and 8. 9. Auditor, the sum of one hundred and fifty pounds per annum each: and each of the other clerks of the Treasury, and Auditor, the sum 1791. ch. 71. of one hundred pounds per annum: And, the keeper of the public jail, the sum of twenty-five pounds per annum.

SEC. II. ALL those several sums shall be paid in specie or in civil list warrants; and the Auditor is hereby authorized to audit the same, and issue his warrants upon the treasury accordingly.

ALL and every act and acts, clauses and parts of acts heretofore made, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

PROVIDED always, That nothing in this act contained, shall be construed to affect any right which shall have accrued prior to the commencement of this act.

A BILL to punish Bribery and Extortion.

SECTION I. **B**E it enacted by the General Assembly, That no treasurer, keeper of any public seal, councillor of state, counsel for the commonwealth, judge, clerk of the peace, sheriff, coroner, escheator, nor any other officer of the commonwealth, shall, in time to come, take, in any form, any manner of brokage, or reward for doing his office, other than is, or shall be, allowed by some act of General Assembly passed after the institution of the commonwealth, that is to say, after the fifteenth day of May, in the year of our Lord one thousand seven hundred and seventy six. And he that doth shall pay unto the party grieved, the treble value of that he hath received, shall be amerced and imprisoned at the discretion of a jury, and shall be discharged from his office for ever. And he who will sue in the said matter, shall have suit as well for the commonwealth, as for himself, and the third part of the amercement. 1783. ch. 83.

SEC. II. ANY person hereafter to be elected to serve in the General Assembly, who shall directly or indirectly give or agree to give any elector, or pretended elector, money, meat, drink or other reward, in order to be elected, or for having been elected for any county, city, or borough, or for any district, shall be expelled, and disabled from being elected a member to either House of General Assembly, during the term of three years. 1785. ch. 55. s. 10.

SEC. III. ANY candidate or other person in his behalf, who shall directly or indirectly give, or agree to give any voter, or pretended voter, money, meat, drink, or other reward in order to be chosen an elector (to vote for a President of the United States) or for having been elected, shall forfeit and pay five hundred pounds for each offence, to be recovered with costs by action of debt, to the use of any person who will prosecute for the same. 1788. ch. 1. s. 2.

SEC. IV. ANY candidate or other person in his behalf, who shall directly or indirectly give or agree to give any elector or pretended elector, money, meat, drink, or other reward in order to be elected, or for having been elected, a representative of this commonwealth in congress, shall forfeit and pay five hundred pounds for each offence, to be recovered with costs by action of debt, to the use of any person who will sue for the same. 1788. ch. 2. s. 4.

SEC. V. ALL and every act and acts, clauses and parts of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

PROVIDED, That any act of bribery or extortion committed or done before the commencement of this act may be prosecuted in the same manner as if this act had never been made.

A BILL against buying and selling of Offices.

Stat. 5 and 6.
Edw. 6. c. 16.

SECTION I. **B**E it declared and enacted by the General Assembly, That if any person or persons shall bargain or sell any office or offices or deputation of any office or offices, or any part or parcel of any of them; or receive or take any money, fee or reward, or any other profit, directly or indirectly, or take any promise, agreement, covenant, bond, or any assurance to receive or have any money, fee, reward or other profit, directly or indirectly, for any office or offices, or for the deputation of any office or offices, or any part of any of them, or for a vote in appointing to any office or offices, or the deputation of any office or offices, to the intent that any person should have, exercise or enjoy any office or offices, or deputation of any office or offices, or any part or parcel of them, which shall in any wise touch or concern the administration of the executive government, or the administration or execution of justice, or the receipt or payment of the public revenue, or which shall concern or touch any clerkship in a court of record—All and every person or persons so offending, shall be incapable of appointing or voting for the appointment to any such office, and shall be adjudged a disabled person in law to all intents and purposes to have, occupy or enjoy the office in virtue of which he holds, or shall hold the right of appointing or voting for the appointment to such office, and shall moreover be amerced and imprisoned at the discretion of a jury; and if a member of either House of Assembly he shall moreover be expelled from the same, and forever after disabled from being elected a member of the General Assembly.

Stat. 5 and 6.
Edw. 6. c. 16.

SEC. II. EVERY person who shall directly or indirectly give or pay any money, fee or reward, or shall make any promise, agreement, bond, or assurance to give any money, fee or reward whatsoever for any vote or appointment to any office, which concerns the administration of the executive government, or the administration or execution of justice, or the receipt or payment of the public revenue or for the clerkship in any court of record, or for the deputation or deputations to any of the said offices, shall be utterly incapable of serving in any such office.

SEC. III. EVERY such bargain, sale, promise, bond, covenant, agreement and assurance as before specified, shall be utterly void and of no effect.

SEC. IV. *PROVIDED always*, That if any person or persons shall be convicted of having offended against this act, yet all judgments

given and all other acts executed or done, by any such person or persons, so offending, by authority or colour of the office or deputation which ought to be forfeited, or not occupied or not enjoyed by the person so convicted, after the offence so by such person committed or done, and before such person so offending for the same offence be removed from the exercise, administration and occupation of the said office or deputation, shall be good and sufficient in law to all intents, constructions and purposes, in such like manner and form as the same should or ought to have remained and been if this act had never been made.

ALL and every statute and statutes, act and acts, clause or clauses thereof within the purview of this act (except as herein after provided) shall be, and are hereby repealed.

PROVIDED always, That nothing in this act contained shall be construed to repeal the said statutes or acts, for so much of them as relates to any offence within the purview thereof, committed or done before the commencement of this act.

A BILL concerning election of members of General Assembly; and declaring when acts of Assembly shall commence in force.

SECTION I. **B**E it enacted by the General Assembly, That the delegates for the several counties and the cities of Williamsburg and Richmond, and borough of Norfolk, and the six senators for one of the four classes of districts, in the room of those who will annually be displaced, shall be chosen, in the manner here after directed, in the month of April in every year, on the court days of each respective county or corporation; and shall meet together, and with the remaining senators, on the third Monday of October then next following, in General Assembly, at the place the last preceding General Assembly shall have sat in, or adjourned to, unless such place be in possession of a public enemy, or infected with the plague, or small pox, in which case they shall meet at such other place as the Governor with the advice of Council shall appoint and notify, by proclamation. 1785. ch. 55. 1788. ch. 63.

SEC. II. EVERY male citizen (other than free negroes or mulattoes) of this commonwealth, aged twenty one years, or such as have refused to give assurance of fidelity to the commonwealth, being possessed, or whose tenant for years, at will, or at sufferance, is possessed of twenty five acres of land, with a house, the superficial content of the foundation whereof, is twelve feet square or equal to that quantity, and a plantation thereon, or fifty acres of unimproved land; or a lot or part of a lot of land in a city or town established by act of General Assembly, with a house thereon of the like superficial content or quantity, having in such land an estate of freehold at the least, and unless the title shall have come to him by descent, devise, marriage, or marriage settlement, having been so possessed six months, and no other person shall be qualified to vote for delegates to serve in General Assembly, for the county, city, or borough respectively in which the land lieth. If the fifty acres of land being one entire parcel, lie in several counties, the holders shall vote in that county wherein the greater part of the land lieth only; and if the twenty five acres of land being one entire parcel, be in several counties, the holders shall vote in that county wherein the house standeth only. In right of land holden by parceners, joint-tenants or tenants in common, but one vote shall be given by all the holders capable of voting, who shall be present, and agree to vote for the same candidate or candidates, unless the quantity of land, in case partition had been made thereof, be sufficient to entitle every holder present to vote separately; or unless some one or more of the holders may lawfully vote in right of another estate or estates in the same county, in which case the others may vote, if holding solely they might have voted. 1785. ch. 55.

SEC. III. EVERY person having such a freehold in either of the cities of Williamsburg or Richmond, or in the borough of Norfolk, as will qualify him to vote

for delegates to represent the county, and also every freeman, except as is before excepted, aged twenty one years, being a citizen of the commonwealth, and not having refused to give assurance of fidelity, who shall be a house-keeper and shall have resided for six months in the said city of Williamsburg or borough of Norfolk, and shall be possessed of a visible estate of the value of fifty pounds at least, or shall actually have served as an apprentice to some trade within the said last mentioned city or borough for the term of five years, and shall have obtained a certificate of such service from the court of hustings, under the common seal of the said city or borough; and no other shall be qualified to vote for a delegate to represent such city or borough respectively in General Assembly. Every person qualified as aforesaid to vote for delegates shall be capable of being elected a delegate for the county, city or borough, or senator for the district, in which he resides.

1786. ch. 10. s. 2. SEC. IV. *PROVIDED nevertheless*, That all persons who shall have migrated into this state, and shall have been admitted to citizenship, shall not be capable of election or appointment to either house of assembly, until an actual residence in the state of five years from the time of such admission, nor until they shall have evinced a permanent attachment to the state by having intermarried with a citizen of the state, or a citizen of any other of the United States; or purchased lands to the value of one hundred pounds therein.

Ibid.—s. 3. SEC. V. *PROVIDED also*, That no person whatsoever, having or holding any place or pension from any foreign state or potentate, shall be eligible to any office, legislative, executive, or judiciary, within this commonwealth.

1788. ch. 63. SEC. VI. *PROVIDED always*, That no person unless he be a freeholder, and although he be a freeholder, unless he shall have *bona fide* resided within the said city of Richmond for twelve months last preceding shall be eligible as a delegate to represent the said city in the House of Delegates. The said election shall be held and conducted by the serjeant of the said city for the time being, under the rules, restrictions and penalties prescribed by this act. *PROVIDED always*, That no freeholder of the said city of Richmond shall be entitled to vote in right of such freehold at any county election of delegates to the General Assembly.

SEC. VII. NO person who shall have served as a member of the legislature for seven years in the whole shall be afterwards compellable to serve therein.

1788. ch. 52. s. 6. 1785. ch. 55. SEC. VIII. ANY elector qualified according to this act failing to attend at any annual election of delegates or of a senator, and if a poll be taken, to give, or offer to give his vote, shall pay one fourth of his portion of all such levies and taxes as shall be assessed and levied in his county the ensuing year. *PROVIDED nevertheless*, That the several county and corporation courts shall be empowered for good cause to them shewn to remit any penalty incurred by any elector qualified according to this act for not having given his vote at any election for a delegate or senator according to law. And for discovering such defaulters the sheriff or other officer taking the poll shall within ten days after the said election, deliver to the clerk of the county or corporation court (as the case may be) a copy of the poll by him taken, to be kept in his office, who shall suffer any candidate or elector to take a copy thereof: And the said clerk is hereby directed to cause a copy of the same to be delivered to the next grand jury to be sworn for the county or corporation, who shall be charged by the presiding magistrate to make presentment of all such persons qualified to vote, residing in the said county or corporation, who shall have failed to have given their votes at the said election agreeable to law. And for the better information of the said jury, the sheriff of the county is hereby commanded, under the penalty of fifty pounds, to be recovered and appropriated as the penalties for other neglects of his duty, to lay before them a list of all the land holders resident therein.

SEC. IX. EVERY elector going to, abiding at, or returning from an election, shall be privileged from arrests, one day for every twenty miles he shall necessa-

rily travel, exclusive of the day of election; and any process against such elector, executed during such privilege, shall be void.

SEC. X. UPON the election of a senator and also of a delegate or delegates, when the election of such delegate or delegates cannot be determined by view, the sheriff or in his absence the under sheriff of the county or the mayor of the city or borough, shall in presence of the candidates, or their agents, cause the poll to be taken in the courthouse, or if that be in a town infected with any contagious disease, or be in danger of an attack from a public enemy, at some other place, according to these directions. He shall appoint such, and so many writers, as he shall think fit, who shall respectively take an oath, to be administered by him, or make solemn affirmation, that they will take the poll faithfully and impartially: He shall deliver a poll book to each writer who by ruling lines thereon, having made as many columns as there shall be candidates, shall enter the name of each candidate in a distinct column at the head thereof, and under his name in the same column the name of every elector who shall vote for that candidate, and after the names of all the electors who will give their votes (proclamation having been made three times at the door of the courthouse, or other place of holding such election by the officer, requiring those who had not been polled to come in, and give their votes) shall have been thus entered, he shall conclude the poll, and declare the candidates for whom the greatest number of votes shall appear to have been given, to be elected; or if the greatest number of votes for several candidates shall be equal with one another, he may declare which of the candidates he will elect. If the number of votes for several persons to be a senator, be equal, and the votes of the returning officers be equal also, it shall be decided by a lot taken by the said returning officers at their meeting which shall be within *twenty days* * after the last day of election, at such place as shall be appointed by the returning officer of the first county in which such election shall be, who is hereby commanded forthwith to give notice to the returning officers. No elector shall be admitted to poll a second time, at one and the same election, although at the first time he shall have given but a single vote, and if any person shall vote a second time at any election for members of the General Assembly he shall forfeit and pay ten pounds, to be recovered with costs of suit in any court of record, by action of debt, bill, plaint, or information, to the use of the person who will sue for the same. If the electors who appear be so numerous that they cannot all be polled before sun setting; or if by rain or rise of water courses many of the electors may have been hindered from attending; the sheriff or under sheriff may by request of any one or more of the candidates or their agents adjourn the proceeding on the poll until the next day and so from day to day for four days (Sundays excluded) if the same cause continue, giving public notice thereof by proclamation at the door of the courthouse or other place of holding such elections; and shall on the last day of the election conclude the poll according to the directions aforesaid.

1788. ch. 52.
s. 4.

SEC. XI. ANY person intending to contest the election of a person returned to serve as a senator or delegate from any district, county or corporation, shall within twenty days after the assembling of the sheriffs to make a return in the former case, or within ten days after the day of election in the latter, give to the person returned to serve, notice thereof in writing, and moreover shall deliver to him at the same time, a list of those persons to whose votes he has objection, distinguishing his several objections against the names of the voters, and where he hath any other objection to the legality of the election, or the eligibility of the person returned as aforesaid, he shall in like manner give notice thereof, distinguishing his particular objections; and the person returned as aforesaid, shall within twenty days after receiving such notice deliver the like lists on his part. Where the contest is for the office of a senator, any one or more of the courts in the senatorial district, or where it is for the office of a delegate, the court of the county shall upon the application of either party, appoint five commissioners to take the depositions of such witnesses as shall be produced to them, any three of which said commissioners shall be sufficient for the purpose, but no commissioner shall act without having first taken, before some justice, an oath to act impartially. Reasonable notice in writing of the time and place of taking such depositions shall be given by either party to the other; and notice in any of the cases before mentioned, as well as the lists left with his wife, or any other free person over the age of twenty-one years belonging to his family, other than a negro or mulatto, or in case of their absence, then at the dwelling-house, shall be deemed sufficient.

1788. ch. 52.
s. 1.

* By the Constitution they are to meet within five days.

1788. ch. 52.
6. 3.

SEC. XII. SUBPŒNAS for witnesses shall be issued by the clerks of the county courts upon the application of either party; and the witnesses shall be entitled to the same allowance, be privileged from arrests, and be subject to the like penalties as witnesses attending county courts. The depositions shall be certified by the commissioners taking the same, sealed up and sent by them to the clerk of the house of which the person was returned a member, without delay.

Ibid. ib. s. 2.

SEC. XIII. COMPLAINT shall be lodged against a member within ten days after the meeting of the Assembly, where the contested election shall have been holden at the stated annual period, or within twenty days after the election, where such election shall have been holden in consequence of an intermediate vacancy; and the depositions taken as aforesaid, shall be by the clerk of each house respectively delivered to the speaker thereof, to be committed with the petition of the party complaining, and shall be received and read as evidence upon the hearing thereof, subject however to the exceptions of the opposite party. On complaint to either house of Assembly of an undue election, or return of any member to their house, such house shall forthwith appoint some day for trying the same, as shortly as shall be consistent with fair enquiry, but not within less than fourteen days after such complaint lodged, whereof notice shall be given by the speaker to the party against whom the complaint is, if he be absent; which day of trial may be lengthened from time to time, on good cause shewn to the house, and notice to the absent party: On the day appointed for the trial, the committee of privileges and elections shall proceed on the said disputed election, and report to the house of which they are members their opinion thereon before they proceed to any other business; and the said house shall on receipt of the said report immediately proceed to determine thereon, and either confirm or disagree to such report as to them shall seem just.

1785. ch. 55.

SEC. XIV. IF any person sworn before the committee shall give or withhold any evidence under such circumstances as would have constituted the same to be perjury, if done in presence of a court of record, the same shall be deemed perjury.

SEC. XV. IF upon any such trial it shall appear that equal numbers of qualified electors shall have voted for the petitioner and the sitting member, and the officer who conducted the election shall swear or solemnly affirm that if such equality had appeared at the election he would have declared the petitioner elected, such petitioner shall be deemed duly elected, and his name, instead of the name of the sitting member, which shall be erased, shall be inserted in the certificate or return.

SEC. XVI. NO elector shall be polled before he shall have declared, if required to do so by any candidate or his agent, in what right he offers to vote, and shall have taken an oath, which the officer conducting the election shall administer, or make solemn affirmation in this form: "I do swear (or do solemnly affirm) that I do in my conscience believe myself to be duly qualified to vote for delegates to serve in General Assembly for the county, city or borough of according to the act of General Assembly, entitled, "An act concerning elections of members of General Assembly; and declaring when acts of Assembly shall commence in force;" of which oath or affirmation a note shall be made in the poll book opposite referring to the name of the person swearing or affirming. The making such oath or affirmation falsely shall be perjury; the names of electors offering to be polled, but refusing to make such oath or affirmation, shall be entered on the poll books in separate lists, with the names of the candidates for whom they voted, and shall be added to the poll, if upon a scrutiny the votes be justified.

SEC. XVII. THE sheriff or under sheriff shall certify the election of delegates in this form or to this effect: "Be it known to all to whom these presents shall come, that I , sheriff (or deputy of sheriff) of the county of , in my full county, held at the courthouse thereof, (or at) on the day of , in the year of our Lord, by the electors of my said county qualified according to law, caused to be chosen two delegates for my said county, namely, and to represent the same in General Assembly. Given under my hand and seal, the day and year aforesaid."

THE serjeant of the city of Richmond or the mayor of any other city or borough entitled to a particular representation, shall certify the election of a delegate in this form or to this effect: "Be it known to all to whom these presents shall come, that I, A. B. mayor or serjeant of the city (or borough) of _____ at the courthouse of (or at _____) in the said city or borough, on the _____ day of _____, in the year of our Lord _____, by the electors of the said city or borough, qualified according to law, caused to be chosen a delegate for the said city or borough, namely (R. A.) to represent the same in General Assembly. Given under my hand and seal, the day and year aforesaid."

SEC. XVIII. The sheriffs or under sheriffs of the several counties of a district shall certify the election of a senator in this form or to this effect: "Be it known to all to whom these presents shall come, that we _____ sheriff, or _____ deputy of _____ sheriff) of the county of _____, sheriff (or _____ deputy of _____ sheriff) of the county of _____ and _____ sheriff (or _____ deputy of _____ sheriff, of the county of _____, in our full counties held at the _____ courthouses thereof, or at (_____) respectively on the _____ day of _____, in the year of our Lord _____, by the electors of our said respective counties, qualified according to law, caused to be chosen a senator for the district composed of the said counties, namely, _____, to represent the same in General Assembly. Given under our hands and seals, the day and year aforesaid."

SEC. XIX. THE officers directed to make such certificates of elections as aforesaid, shall cause them to be delivered, those of delegates to the clerk of the house of delegates; and those of senators, to the clerk of the senate, one day at least before the succeeding session of General Assembly. For the election of a delegate, or senator, when a vacancy shall happen, a writ or writs shall be issued by the speaker of that house whereof he was a member, but if the vacancy be occasioned by acceptance of an office, the writ or writs shall not be issued without the special order of the house; and the officer to whom such writ shall be directed, so soon after the receipt thereof as he may be able, shall give the electors notice thereof, as well as of the time and place of election, by advertisement to be affixed at four of the most convenient places in the county, and shall cause the election to be made in the manner herein before prescribed, and shall have the same power of adjourning the proceeding upon the poll, as in case of a general election. The return of such writ for electing a delegate or delegates, shall be in this form, or to this effect. Upon the writ shall be endorsed these or the like words—"The execution of this writ appears in a schedule hereunto annexed." And on another paper annexed to the writ shall be written, if the writ be for the election of a delegate for a county, these or the like words—"By virtue of this writ to me directed, in my full _____ county, held at the courthouse thereof (or at _____) on the _____ day of _____ in the year of our Lord _____, by the electors of my said county, qualified according to law, I caused to be chosen a delegate (or two delegates) for my said county, namely, _____, to represent the same in General Assembly. Given under my hand and seal, the day and year aforesaid;" and if the writ be for the election of a delegate for a city or borough, these or the like words—"By virtue of this writ to me directed, at the courthouse of the city _____ of _____, or at _____, in the borough of _____, on the _____ day of _____, in the year of our Lord _____, by the electors of the said borough, (or city) qualified according to law, I caused to be chosen a delegate for the said city or borough, namely, _____, to represent the same in General Assembly. Given under my hand and seal, the day and year aforesaid;" and the return of the writs for electing a senator, shall be in this form, or to this effect. Upon each writ shall be endorsed these or the like words—"The execution of this writ appears in a schedule hereunto annexed;" and on another paper connecting the several writs together, shall be written these or the like words—"By virtue of these writs to us directed, in our full counties, held at the _____ courthouses thereof respectively, or at _____, on the _____ day of _____, in the year of our Lord _____, by the electors of our said respective counties, qualified according to law, we caused to be chosen a senator for the district composed of our said counties, namely, _____, to represent the same in General Assembly. Given under our hands and seals, the day and year aforesaid."

SEC. XX. AND the officers conducting the elections, shall make their said returns to the General Assembly, if it be fitting, immediately, or if it be not

1785. ch. 55.

s. 10.

sitting, one day at least before the time to which the writ shall be returnable. A sheriff, under sheriff, or mayor, refusing to take the poll when he shall be required by a candidate, or elector, or taking it in other manner than is herein before prescribed, or making a false certificate or return of the election of a member, or members, to serve in the General Assembly, or neglecting to cause the certificate or return of such election to be made to such clerk, and at or before such time as is herein before directed, shall forfeit and pay one hundred pounds; and neglecting to deliver the poll books to the clerk of the court, to whom, and before the expiration of the time, within which, they are herein before directed to be delivered, or refusing to suffer any candidate or elector, at his own expense, to take a copy of the poll books, shall forfeit and pay fifty pounds; which penalties may be recovered with costs, in actions of debt, by any person who will sue for the same, one half to his own use, and the other half to the use of the commonwealth.

SEC. XXI. ANY person hereafter elected to serve in the General Assembly, who shall directly or indirectly, give or agree to give, any elector or pretended elector, money, meat, drink or other reward, in order to be elected, or for having been elected for such or any other county, city or borough, shall be expelled, and disabled to be re-elected during the term of three years.

Ibid.—s. 11. SEC. XXII. THE privilege of members of General Assembly shall continue during every session, and one day before and after for every twenty miles they must necessarily travel to, and from home, and in the mean time process in which they are parties, shall be suspended, without abatement or discontinuance: If any person taken in execution, be delivered by privilege of either house of General Assembly; so soon as such privilege ceaseth, he shall return himself a prisoner in execution, or be liable to an escape.

SEC. XXIII. IF a sufficient number of members of General Assembly, or of either house thereof, to adjourn from day to day, shall not meet at any time when they ought, the Governor by proclamation, with the advice of Council, may prorogue the General Assembly, or adjourn the deficient house from day to day, until a sufficient number shall convene, and their acts and proceedings afterwards, shall be as valid as if there had been no such interruption. But a delegate or senator, shall lose all the wages he would otherwise have been entitled to, if he shall depart from the General Assembly before it be adjourned, without licence from the speaker, and other members of the house whereof he is a member first entered on the journal; yet any member of either house, taken so sick during his attendance in General Assembly, or in his journey thither, as that he shall be unable to come to, or sit in the house, shall receive wages for every day of the session he shall be so disabled, in the same manner as if he had sat in the house. If on the day appointed for the meeting of any General Assembly, or at any time during the session, a sufficient number of members thereof to proceed to business, do not attend for that purpose, every absent delegate or senator, shall, besides losing his wages during absence, forfeit and pay to the use of the commonwealth, ten pounds; such forfeiture to be recovered by prosecution, instituted in the General Court, by order of such house; and on the trial of such prosecution, no excuse for non-attendance, other than those before mentioned, shall be admitted by the jury; and if it be alledged that the defendant did attend such house on any of the days during which they could not do business for want of members, the proof of such attendance shall rest on him. The General Assembly may during a session, or at the end thereof, adjourn to any other place, than that where they shall be then sitting.

1789. ch. 9.
s. 2. SEC. XXIV. WHENSOEVER one law which shall have repealed another, shall be itself repealed, the former law shall not be revived without express words to that effect: Every act passed during any stated annual session, shall commence in force on the first day of March then next ensuing, unless in the act itself another day be particularly mentioned for the commencement thereof.

1787. ch. 97.
s. 4. SEC. XXV. AND whereas it is contrary to the true principles of representation, that a freehold estate in any particular place, should enable the possessor to vote in the elections of different and distinct places. *Be it enacted*, That in any city, town or borough, which at any time hereafter, shall obtain and enjoy the

privilege of sending, in its own right, a representative to the house of delegates of this commonwealth, the freeholders thereof shall be, and they are hereby declared incapable of voting in the election of delegates for any county, in virtue or right of their respective freehold estates within any such city, town or borough.

EVERY ordinance of convention or act of Assembly within the purview of this act, shall be, and the same is hereby repealed.

A BILL for arranging the Counties in Districts for electing Senators, and to ascertain their wages.

SECTION I. **F**OR the regular election of senators to the General Assembly, May 1776. ch. 6. s. 1 and 2. *BE it enacted*, that the counties of Accomack and Northampton, shall be one district; the counties of Princess Anne, Norfolk, and Nansemond, one other district; the counties of Isle of Wight, Surry, and Prince-George, one other district; the counties of Dinwiddie, Southampton, and Sussex, one other district; the counties of Brunswick, Lunenburg, Mecklenburg, and Greenville, one other district; the counties of Charlotte, Halifax, and Prince Edward, one other district; the counties of Chesterfield, Amelia, Cumberland, Nottoway, and Powhatan, one other district; the counties of Buckingham, Amherst, Albemarle, and Fluvanna, one other district; the counties of Pittsylvania, Campbell, Bedford, Henry, Patrick, and Franklin, one other district; the counties of Botetourt, Washington, Montgomery, Russell, Greenbrier, Kanawha, and Wythe, one other district; the counties of Elizabeth-City, Warwick, and York, one other district; the counties of Charles City, James City, and New-Kent, one other district; the counties of Henrico, Goochland, and Louisa, one other district; the counties of Hanover, and Caroline, one other district; the counties of Augusta, Rockingham, Rockbridge, Shenandoah, Pendleton, and Bath, one other district; the counties of Essex, King-William, and King and Queen, one other district; the counties of Gloucester, Middlesex, and Mathews, one other district; the counties of Lancaster, Richmond, and Northumberland, one other district; the counties of Westmoreland, Stafford, and King-George, one other district; the counties of Spottsylvania, Orange, and Culpeper, one other district; the counties of Fairfax, and Prince William, one other district; the counties of Loudoun, and Fauquier, one other district; the counties of Frederick, Berkeley, Hampshire, and Hardy, one other district; the counties of Monongalia, Harrison, Ohio, and Randolph, one other district.

SEC II. EACH and every senator shall be allowed the like number of traveling days, and the same wages, as are or shall by law, be established for delegates coming to, attending on, and returning from the General Assembly. May 1776. ch. 6. s. 4

SEC. III. ALL ordinances of Convention, or acts of Assembly within the purview of this act, shall be, and the same are hereby repealed.

A BILL for reducing into one act, the several acts, and parts of acts, respecting the powers and duties of the Executive.

SECTION I. **B**E it enacted, That if any combination for dismembering this state, or establishing in any part of it a separate government, should become so powerful as to obstruct the due execution of the laws of this commonwealth in the ordinary course of proceeding, within any county or counties thereof; it shall be lawful for the Governor, with advice of Council, to call out the militia of the state, to suppress such combination, and to employ them in the same manner as he may do by law, in cases of invasion or insurrection.

SEC. II. It shall and may be lawful for the Governor, with the advice of the Council of State, to apprehend and secure, or cause to be apprehended and secur- 1785. ch. 15.

ed, or compelled to depart this commonwealth, all suspicious persons, being the subjects of any foreign power or state, who shall have made a declaration of war, or actually commenced hostilities against the said states, or from whom the President of the United States shall apprehend hostile designs against the said states; provided information thereof shall have been previously received by the executive from him.

1785. ch. 15. SEC. III. AND in all such cases the Governor, with the advice of the Council of State, shall, and he is hereby empowered, to send for the person and papers of any foreigner within this state, in order to obtain such information as he may judge necessary.

Ibid. SEC. IV. ALL sheriffs and jailors shall receive such suspicious persons whom, by warrant from the Governor they shall be commanded to receive, and them in their prisons or custody detain, or transport out of the commonwealth, as by such warrant they may be commanded. And all others the good citizens of this commonwealth, shall be aiding and assisting in apprehending, securing, or transporting any such suspicious person when commanded by warrant or proclamation of the Governor, or required by the sheriff or jailor to whose custody such suspicious persons may have been committed. Every person acting under the authority aforesaid, shall be indemnified from all suits to be commenced or prosecuted for any action or thing done by virtue thereof, and may plead the general issue and give this act in evidence.

Ibid. SEC. V. SAVING always to the merchants of any foreign state, betwixt whom and the United States of America war shall have arisen, and to their families, agents, and servants, found in this commonwealth at the beginning of the war, the privileges allowed by law.

1785. ch. 56. SEC. VI. IF the Governor and President of the Privy Council shall die, or otherwise become unable to perform his duty, in the recess of the General Assembly, the Privy Councillor, whose name stands next in the list of their appointments, shall officiate as Lieutenant-Governor, until the vacancy be supplied, or the disability cease. And in the absence of the Governor, such intended absence having been previously notified to them by him, and entered on their journals, or in the like absence of the President, and upon the like notification, if any business to be transacted at the council board necessarily require dispatch before he can attend it, the council may proceed without him; and in either case the act shall be as valid as if he had been present.

1785. ch. 58. SEC. VII. THE Governor and Council shall have power to appoint, from time to time as they shall be wanting, a drawing clerk, a copying clerk, and a clerk of foreign correspondence, who shall each of them take an oath, to be administered by any member of the Board, to keep secret all such matters as they shall direct them to keep secret; which clerks shall be removeable at their will.

ALL and every act and acts, clause and clauses of acts, within the purview of this act, shall be, and are hereby repealed.

A BILL for reducing into one act, the several acts concerning the Court of Appeals, and Special Court of Appeals.

1788. ch. 68. SECTION I. **B**E it enacted by the General Assembly, That the Court of Appeals, shall consist of five Judges, to be chosen and commissioned in the manner directed by the constitution of this commonwealth.

SEC. II. ANY three of the said judges shall constitute a court.

SEC. III. THE said court shall be holden at the Capitol in the city of Richmond, or at such other place as shall be appointed by the General Assembly, or in their recesses, by the Governor with the advice of the Council of State, on any such emergency as will make the adjournment lawful. 1788. ch. 68.

SEC. IV. THE said Court shall be holden twice in every year, namely, on the tenth day of April, and the tenth day of October, or when that shall happen to be Sunday, on the succeeding day, and shall sit each time until the business depending before them shall be dispatched. 1791. ch. 18.

SEC. V. EVERY judge before he exercise his office shall in open court give assurance of fidelity to the commonwealth, and take this oath.—“ You shall swear that you will well and truly serve this commonwealth in the office of a judge of the Court of Appeals, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, without respect of persons. You shall not take by yourself or any other, any gift, fee, or reward of gold, silver, or any other thing, directly or indirectly of any person or persons great or small, for any matter done or to be done by virtue of your office, except such fees or salary as shall be by law appointed. You shall not maintain by yourself or any other, privily or openly, any plea or quarrel depending in the courts of this commonwealth. You shall not delay any person of right for the letters or request of any person, nor for any other cause; and if any letter or request come to you, contrary to the law, you shall nothing do for such letter or request, but you shall proceed to do the law, any such letter or request notwithstanding. And finally in all things belonging to your said office, during your continuance therein you shall faithfully, justly, and truly, according to the best of your skill and judgment do equal and impartial justice without fraud, favor, or affection. SO HELP YOU GOD.”

SEC. VI. THE said court shall have jurisdiction not only in the cases provided for by the constitution of this commonwealth, and in suits originating there, or adjourned thither for trial by virtue of any statute, which trials shall be by juries according to the course of law, but also in such as are now pending therein, or shall be brought before them by appeals, writs of error, or superseatas, to reverse decrees of the High Court of Chancery, or judgments of the General Court, or District Courts of this commonwealth, after those decisions shall be final there, if the matter in controversy be equal in value, exclusive of costs, to thirty pounds, if the judgment sought to be reversed shall be rendered in the District Courts, or fifty pounds if in the General Court or High Court of Chancery, or be a freehold or franchise; and in all other cases therein depending at the commencement of this act. May 1779. ch. 22. s. 1. 1783. ch. 67. s. 16.

SEC. VII. IF a sufficient number of judges to constitute a court shall not attend on the first day of any term of the Court of Appeals, it shall be lawful for any one judge thereof to adjourn the court from day to day for four days successively, or until a sufficient number shall attend, and if that shall not happen before four of the clock on the fourth day, then the court shall stand adjourned, and all suits depending therein continued to the next court. And if during any session after a court shall have been constituted, three judges shall not attend to make a court, there shall be no discontinuance of the term, but the court shall stand adjourned from day to day till a sufficient number shall attend, provided that shall happen in four days; and if it does not, then the term and suits shall stand adjourned to the next court as before directed. 1790. ch. 9. s. 2.

SEC. VIII. ALTHOUGH one or more of the judges of the Court of Appeals be interested in the event of any suit, matter or thing depending therein, the same shall be finally decided by the other judges, if there be a number of judges not so interested sufficient to constitute a court. 1789. ch. 18. s. 5.

1789. ch. 18. **SEC. IX.** IF on an appeal from the High Court of Chancery, or on any question concerning any decree or order made therein, or process to be directed thereto, a majority of, or all the judges of the Court of Appeals be interested, then in the former case the remaining judges of the Court of Appeals not so interested, and as many of the judges of the General Court as will make the number at least five, and in the latter case, so many of the judges of the General Court not so interested as will make the number five at least, shall constitute a special court for the trial of such appeal or question.

Ibid.—ib. s 7. **SEC. X.** IF on an appeal, writ of error, or superseas to or from any judgment or order made in the General Court or any question concerning the same, or any process to be directed thereto, a majority or all of the judges of the Court of Appeals be interested therein, then in the former case the remaining judges of the Court of Appeals, not being so interested, together with the judge of the High Court of Chancery, and as many of the judges of the General Court, not being so interested, as will make the number five at least, shall constitute a like court for the purpose aforesaid.

Ibid.—ib. s 8. **SEC. XI.** IF on an appeal, writ of error, or superseas to or from any judgment or order made in a District Court, or any question concerning the same, or concerning any process to be directed thereto, a majority or all the judges of the Court of Appeals be interested, then in the former case, the remaining judges of the Court of Appeals not being interested, the judge of the High Court of Chancery not being so interested, and as many of the judges of the General Court who are not so interested, and did not render the judgment or direct the order, as will make the number five at least, shall constitute a like court for the purpose aforesaid; and in the latter case no judge of the Court of Appeals shall sit; but any five of the judges last mentioned, and not disqualified as aforesaid, shall constitute a court: **PROVIDED** always, that in case of the sickness or other disability of the judge of the High Court of Chancery to attend any special Court of Appeals, such court may, in any case, be constituted by other judges.

1789. ch. 18. **SEC. XII.** WHENSOEVER a majority or all of the judges of the Court of Appeals shall be interested in any of the cases abovementioned, the same shall be entered of record in the said court; and the clerk thereof shall thereupon issue a summons to the judge of the High Court of Chancery, and judges of the General Court requiring them, if not disqualified as aforesaid, to attend at the capitol in the city of Richmond, or in case of adjournment of the Court of Appeals to any other place, at such other place, on the twentieth day of June or November then next following, and stating the names of the parties, and the court whose decision is to be examined.

1789. ch. 18. **SEC. XIII.** A court constituted in any of the cases above described, shall hear, determine, and finally decide, all suits, process, matters and things submitted to their cognizance and jurisdiction aforesaid.

1791. ch. 11. **SEC. XIV.** THE clerk of the Court of Appeals for the time being, shall attend all such special courts with the records in the cases to such special courts committed, and enter the proceedings of all such special courts in the order book of the Court of Appeals, and the same shall be signed by the presiding judge of such special court, and be certified to the inferior court; and the judgment or decree, sentence or order of such court shall be carried into execution in the same manner as if the same had been determined in the Court of Appeals.

1791. ch. 11. **SEC. XV.** SUCH special Courts shall be attended by the like officers with the Court of Appeals, who shall receive the like compensation as they now do in the said court; and such special Courts may adjourn and do all and every act as a court during their session, which the Court of Appeals may by law do.

Ibid.—ib. s 7. **SEC. XVI.** **PROVIDED** always, That where any cause shall be pending in any such special court, and the same shall not be determined before there shall be

a sufficient number of the judges of the Court of Appeals, qualified to make a court for deciding the same, such cause shall be resumed by the Court of Appeals, and be determined there, as if such cause had never been committed to a special court.

SEC. XVII. EACH judge attending in consequence of such summons, shall, 1790. ch. 7.
in open court, take an oath to do his duty as a judge of Appeals, in the case or s. 3.
cases on which he is summoned, impartially and truly, without favor or affection,
which oath shall be administered by the eldest sitting judge, and shall then be ad-
ministered to him, if he shall not before have qualified as a judge of the Court
of Appeals, by one other of the judges.

SEC. XVIII. EACH judge attending in consequence of such summons, and 1789. ch. 18.
not disqualified as aforesaid, shall be allowed for his attendance twenty shillings
per day, and for travelling to and from the place of session, two dollars for every
twenty miles: And the judges of the Court of Appeals attending such special 1791. ch. 11.
court, and not disqualified to sit therein, shall be paid the same allowance. s. 3.

SEC. XIX. THE Court of Appeals shall appoint, a clerk, tip-staff, and cry- May 1779. ch.
er, the first removable for misbehaviour, in the manner directed by the constitu- 22.
tion, the two others at pleasure, and shall be attended by the sheriff of the county
in which they sit, as their officer.

SEC. XX. IF a vacancy shall happen in the office of clerk, out of the terms 1783. ch. 68.
of the said Court, it shall be lawful for a majority of the judges, by commission s. 8.
under their hands and seals, to appoint.

SEC. XXI. THE clerk of the said court shall carefully preserve the transcripts
of records certified to his court, with the bonds for prosecution, and all papers
relative to them and other suits depending therein, docketing them in the order he
shall receive them, that they may be heard in the same course, unless the court
for good cause to them shewn, direct any to be heard out of its turn; and shall
faithfully record their proceedings and decisions, and certify the same to the pro-
per courts.

SEC. XXII. APPEALS, writs of error, and superseas may be granted, 1788. ch. 68.
heard, and determined by the Court of Appeals, to and from any final decree or s. 12.
judgment of the High Court of Chancery, General Court, and District Courts,
in the same manner and on the same principles as appeals, writs of error, and su-
perseas are to be granted, heard, and determined by the High Court of Chan-
cery, and District Courts, to and from any final decree or judgment of a coun-
ty, city, or borough court; and the party shall proceed in like manner, and the da-
mages in case of affirmance, shall be the same in the Court of Appeals, as in those
courts respectively; and the clerk of the said court shall issue the like process for
summoning the adverse party, removing the records, suspending the execution,
and for every other requisite purpose, making those alterations in the form, which
are necessary to adapt it to the case, as are prescribed in the like cases in the
High Court of Chancery and the District Courts, respectively.

SEC. XXIII. WRITS of superseas may be granted by any judge of the 1789. ch. 13.
Court of Appeals during vacation, the party desiring to obtain the same proceed- s. 18.
ing in like manner as in the case of a superseas to be granted by a judge of the
District Courts to a judgment of the county court.

SEC. XXIV. WHERE one person or several, obtain an appeal, writ of er- 1788. ch. 67.
ror, or superseas, bond and security given by any party, or by any responsible s. 92.
person, shall be valid and sufficient. Ibid. ch. 68.
s. 10.

1789. ch. 18. s. 12. SEC. XXV. WHENSOEVER any appeal, writ of error, or superseas, shall be granted, and a transcript of the record be not sent to the court on or before the second term of the Court of Appeals, after the same shall have been granted, such appeal, writ of error, or superseas, shall be dismissed, unless good cause be shewn to the contrary.

Ibid.—ib. s. 15. SEC. XXVI. AFTER the dismissal of an appeal, writ of error, or superseas, in the Court of Appeals, no appeal, writ of error, nor superseas, shall be allowed.

May 1779. ch. 22. SEC. XXVII. A CLEAR and concise state of the case of each party in an appeal, writ of error, or superseas, with the points intended to be insisted on, signed by his counsel and printed, the expense whereof shall be taxed in the bill of costs, shall be delivered to every judge time enough before the hearing, for his consideration; but the court, if this be neglected, may nevertheless hear and determine the matter, and may give such decree or judgment, if it be not affirmed or reversed in the whole, as the court whose error is sought to be corrected, ought to have given (affirming on those cases where the voices on both sides shall be equal, with an allowance of the costs of appeal to the party prevailing) to be certified to the court from which the matter was removed, who shall enter it as their own, and award execution thereupon accordingly.

1789. ch. 18. s. 1. SEC. XXVIII. IT shall not be lawful for the High Court of Chancery or General Court, to remove before the Court of Appeals, by adjournment, any question, matter, or thing, whatsoever.

Ibid.—ib. s. 3. SEC. XXIX. THE salary of a judge of the Court of Appeals shall be the same, and shall be paid in the same manner, with the salary of a judge of the General Court.

1788. ch. 67. s. 22. SEC. XXX. THE judges of the Court of Appeals shall direct the form of writs from time to time, in such manner as shall seem advisable.

ALL acts and parts of acts, within the purview of this act, shall be, and are hereby, repealed.

A BILL reducing into one, the several Acts, concerning the High Court of Chancery.

SECTION I. **B**E it enacted by the General Assembly, That the High Court of Chancery shall consist of one judge to be chosen and commissioned in the manner directed by the constitution of this commonwealth.

1789. ch. 69. SEC. II. THE said court shall be holden at the capitol in the city of Richmond, or at such other place as shall be appointed by the General Assembly, or in their recess by the Governor, with the advice of the Council of State, on any such emergency as will make the adjournment lawful.

1790. ch. 12. 1791. ch. 12. SEC. III. THE said court shall be holden three times in every year, namely, on the first day of March, on the twelfth day of May, and on the first day of September; but if either of those days happen on a Sunday, on the day following.—The session in March shall continue eighteen, and the sessions in May and September twenty-four juridical days successively, unless the business depending before the said court shall be sooner dispatched.

SEC. IV. IF the judge shall not attend on the first day of the term, such court shall stand adjourned from day to day until a court be made, if that shall happen before four o'clock in the afternoon of the sixth day. 1788. ch. 69.

SEC. V. IF a court shall not sit in any term, or shall not continue to sit the whole term, or before the end of the term shall not have heard and determined all matters ready for its decision, all suits, matters and things depending in court and undecided, shall stand continued to the next succeeding term. If from any cause the court shall not sit on any day of the term after it shall have been opened, there shall be no discontinuance; but so soon as the cause is removed the court shall proceed to business until the end of the term, if the business depending before it be not sooner dispatched. Ibid. ib.

SEC. VI. EVERY person so commissioned before he enters upon the duties of his office, shall take and subscribe the oath of fidelity to this commonwealth, and take the following oath—"You shall swear that well and truly you will serve this commonwealth in the office of judge of the High Court of Chancery, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to equity and good conscience, and the laws and usages of Virginia, without respect of persons. You shall not take by yourself, or by any other, any gift, fee, or reward, of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done by virtue of your office, except such fees or salary, as shall be by law appointed. You shall not maintain by yourself, or by any other, privily or openly, any plea or quarrel depending in the courts of this commonwealth. You shall not delay any person of right for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to law, you shall nothing do for such letter or request, but you shall proceed to do the law, any such letter or request notwithstanding; and finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial justice, without fraud, favor, affection or partiality. SO HELP YOU GOD." Such oath shall be taken before the Executive, and a certificate thereof recorded in the said court. Oa. 1777. ch. 15. s. 1.

SEC. VII. IF any person shall presume to execute the said office without having taken the said oaths, he shall forfeit and pay the sum of five hundred pounds, for his said offence. Oa. 1777. ch. 15. s. 2.

SEC. VIII. THE said court shall have general jurisdiction over all persons and in all causes in chancery, now pending therein, or which may hereafter be brought before it, whether by original process, appeal from any inferior court, certiorari, or other legal means, and also in such other cases, as by any statute, are, or shall be made cognizable therein: But no person shall commence an original suit in any matter of less value than ten pounds, except it be against the justices of any county or other inferior court, on pain of having the same dismissed with costs. Ibid. ib.

SEC. IX. IF the judge of the said Court shall be interested in any suit which in the case of any other person would have been proper for the jurisdiction of such court, it may be lawful to institute such suit in the General Court, where proceedings shall be had conformably to the principles and usages of equity; and process shall be returnable as the General Court shall direct; and thereafter an appeal may be had to the Court of Appeals. 1788. ch. 69.

SEC. X. THE said court shall be considered as always open, so as to grant injunctions, writs of ne exeat, certiorari, and other process heretofore usually granted in vacation. Oa. 1777 ch. 15. s. 2.

SEC. XI. THE said court shall have power to appoint a clerk, who shall hold his office during good behaviour, and be entitled to such fees or salary as the legislature may appoint, as also a serjeant at arms. And in case of a vacancy in Ibid. ib.

the recess of the said Court, the said judge may make the like appointments, under his hand and seal, during a vacation; and such succeeding clerk or serjeant, having in any court of record, taken the oaths required by law, shall exercise the same power, perform the same duties, and be entitled to the same fees and profits, as if he had been appointed in term time.

1788. ch. 69. SEC. XII. IT shall be lawful for the High Court of Chancery to send any matter of law to the General Court, for their opinion to be certified thereupon.

1787. ch. 9. SEC. XIII. ALTHOUGH any of the defendants, whether debtors or others, in any suit instituted in the said court, should be absent from the commonwealth, the court may nevertheless proceed to a hearing and decree therein, as in the case of absent debtors having effects within the commonwealth.

Oct. 1783. ch. 3. s. 23. SEC. XIV. The said Court in its discretion, may direct an issue to be tried, whenever it shall be judged necessary, either in that court, or in any other court whatsoever, as justice or convenience to the parties may require; and in all other cases the mode of trial shall be the same as hath been heretofore used and practised in the courts of chancery in Virginia.

1788. ch. 67. s. 131. SEC. XV. IF a majority of the judges of the General Court be interested in any suit, which in the case of any other person would have been proper for the jurisdiction of such court, it may be lawful to institute such suit in the High Court of Chancery, where proceedings shall be had conformably to the rules of the General Court; and process shall be returnable as the High Court of Chancery shall direct; and thereafter an appeal may be entered to the Court of Appeals.

Ibid. c. 69. SEC. XVI. IT shall be lawful for the said Court to arrange the business thereof, in the most convenient and equitable manner.

May 1788. ch. 7. s. 3. SEC. XVII. ANY party thinking himself aggrieved by a decree of the court of a county, city, or borough, in chancery, and not having entered an appeal from the decree at the time it was pronounced, may appeal from such decree at any time within one month after the decree pronounced, lodging for that purpose with the clerk of the High Court of Chancery a copy of the proceedings in the suit, and a petition suggesting error in the decree, signed by some counsel attending the High Court of Chancery, and also lodging with the petition a bond executed by the appellant or his agent, and a surety or sureties with the like condition as is annexed to other appeal bonds and affidavits, or solemn affirmations, verifying the sufficiency of the sureties; and the clerk shall thereupon issue a summons against the appellee, requiring him to appear and answer the said petition and appeal, and shall also issue a superseas, if necessary, to enjoin from proceeding in execution of the decree; and the court shall and may hear and determine the appeal in the same manner as if the appeal had been entered at the time the decree was pronounced.

1787. ch. 9. SEC. XVIII. PROVIDED always, That whenever an appeal is prayed for from any inferior court to the said High Court of Chancery, or bond is given for the removal of any suit in chancery, in any manner whatsoever, it shall be sufficient in either case, if the said bond or bonds shall be executed by good and sufficient securities, although the appellant or party shall not execute the said bond or bonds.

Ibid.—ib. SEC. XIX. THE said Court, or the judge thereof in vacation, shall have power, for good cause shewn, to allow a petition of appeal, and if necessary, order a superseas to stop the execution of any decree pronounced by an inferior court, at any time within three years after pronouncing the same; the party praying such appeal and superseas, complying with the terms which the said Court or judge shall annex to such order.

SEC. XX. ALL original process to bring any person to answer any bill, petition, or information in the said court, and all subsequent process thereupon, shall be issued and signed by the clerk in the name of the commonwealth, and bear teste by the judge of the said court; shall be returnable to the first or seventeenth days of the term, which shall be next after the suing out such process, and may be executed at any time before the return day thereof. And if any process shall be executed so late that the sheriff hath not reasonable time to return the same before the day of appearance, and thereupon any subsequent process shall be awarded, the sheriff shall not execute such subsequent process, but shall return the first process by him executed, on which there shall be the same proceedings as if it had been returned in due time. Ost. 1777. ch. 15. s. 2.

SEC. XXI. ALL appeals from decrees in chancery, obtained in any inferior court, shall be made to the third day of the next term. Ibid.—ib.

SEC. XXII. IN all suits in the said court, the following rules and methods shall be observed: The complainant shall file his bill within one calendar month after the day of appearance, or may be ruled on the requisition of the defendant to file such bill, and if he fails to do so within one calendar month after such rule, the suit may be dismissed with costs; and if he shall fail to file the same within three months after the subpoena shall be returned executed, the suit shall stand ipso facto dismissed with costs. Ibid.—ib. s. 3

SEC. XXIII. AND upon the complainant's dismissing his bill, or the defendant's dismissing the same for want of prosecution, the complainant shall pay costs, to be taxed by the clerk of the court; for which costs, an attachment, or other process of contempt, or an execution may issue, at the election of the defendant, returnable on any return day. Ibid.—ib. s. 4.

SEC. XXIV. THE complainant may amend his bill before the defendant or his attorney hath taken out a copy thereof, or in a small matter afterwards, without paying costs; but if he amend in a material point after such copy obtained, he shall pay the defendant all costs occasioned thereby. Ibid. ib. s. 5.

SEC. XXV. IF the defendant shall not appear on the day of appearance (which in all cases shall be the second day after the term to which the subpoena is returnable) an attachment shall be awarded and issued against him, returnable to the next term, which being returned executed, if the defendant doth not appear, or being brought into court upon any such process, shall obstinately refuse to answer, the complainant's bill shall be taken as confessed, and the matter thereof decreed accordingly. Ibid. ib. s. 6.

SEC. XXVI. THE defendant within three calendar months after his appearance and bill filed, shall put in his answer to be filed with the clerk in the office, at the expiration of which time, if no answer be filed, the clerk, upon request, shall issue an attachment, returnable to the next court; and if no answer be filed upon the return of such attachment executed, or a copy thereof left at the defendant's usual place of abode, or last place of residence, the complainant's bill shall be taken as confessed, and the matter thereof decreed; and if the attachment be returned not executed, an attachment with proclamation, and such subsequent process of contempt may issue as was heretofore issuable out of the General Court sitting in chancery in like cases. Ibid. ib. s. 7.

SEC. XXVII. No process of contempt shall issue unless the subpoena be returned served by a sworn officer, or affidavit be made of the service thereof. Ibid. ib. s. 8.

SEC. XXVIII. EVERY defendant may swear to his answer before any judge of this or of the General Court, or any justice of the peace. Ibid. ib. s. 9.

1787. ch. 9. s. 2. SEC. XXIX. IF the defendant does not file his answer within three months after the plaintiff shall have filed his bill, having also been served with the subpoena at least three months before the said time for filing his answer, the plaintiff may have a general commission to take depositions, or he may move the Court to bring in the defendant to answer interrogatories, at his election, and proceed on to hearing in the two last cases, as if the answer had been filed, and the cause was at issue: *Provided*, that the Court for good cause shewn may allow the answer to be filed, and grant a further day for such hearing.

Ibid. SEC. XXX. AFTER answer filed, and no plea in abatement to the jurisdiction of the Court, no exception for want of jurisdiction shall ever afterwards be made, nor shall the High Court of Chancery, or any other court, ever thereafter delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting lands lying without the jurisdiction of such Court, and also of infants and femes covert.

Ord. 1777. ch. 15. s. 10. SEC. XXXI. WHEN a cross bill shall be exhibited, the defendant or defendants to the first bill shall answer thereto before the defendant or defendants to the cross bill shall be compelled to answer such cross bill.

Ibid. s. 11. SEC. XXXII. THE complainant shall reply, or file exceptions within two calendar months after the answer shall have been put in. If he fails so to do, the defendant may give a rule to reply with the clerk of the Court, which being expired, and no replication or exceptions filed, the suit shall be dismissed with costs; but the Court may order the same to be retained if they see cause, on payment of costs.

Ibid.—s. 12. SEC. XXXIII. IF the complainant's attorney shall except against any answer as insufficient, he may file his exceptions, and give a rule with the clerk to make a better answer within two calendar months, and if within that time the defendant shall put in a sufficient answer, the same shall be received without costs; but if any defendant insists on the sufficiency of his answer, or neglect or refuse to put in a sufficient answer, or shall put in another insufficient answer, the plaintiff may set down his exceptions to be argued the next term in court, and after the expiration of such rule, or any second insufficient answer put in, no farther or other answer shall be received but upon payment of costs.

Ibid.—s. 13. SEC. XXXIV. IF upon argument the complainant's exceptions shall be overruled, or the defendant's answer adjudged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, such costs as shall be allowed by the court.

Ibid.—s. 14. SEC. XXXV. UPON a second answer adjudged insufficient, costs shall be doubled.

Ibid.—s. 15. SEC. XXXVI. IF a defendant shall put in a third insufficient answer, which shall be so adjudged, he or she may be examined upon interrogatories, and committed until he or she shall answer them, and pay costs.

Ibid.—s. 16. SEC. XXXVII. IF the defendant, after process of contempt, put in an insufficient answer, which shall be so adjudged, the complainant may go on with the subsequent process of contempt as if no answer had been put in.

Ibid.—s. 17. XXXVIII. RULES to plead, answer, reply, rejoin, or other proceedings not before particularly mentioned, when necessary, shall be given from month to month with the clerk in his office, and shall be entered in a rule book for the information of all parties, attorneys, or solicitors, concerned therein.

SEC. XXXIX. NO defendant shall be admitted to put in a rejoinder, unless it be filed on or before the expiration of the rule to rejoin, but the complainant may proceed to set his cause down for hearing. Oa. 1777 ch. 15 s. 17.

SEC. XL. AFTER an attachment with proclamation returned, no plea or demurrer shall be received unless by an order of court, upon motion. Ibid. s. 19.

SEC. XLI. IF the complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may set it down with the clerk to be argued; or if he thinks the plea good, but not true, he may take issue upon it, and proceed to trial by jury, as has been heretofore used in other causes in chancery where trial hath been by jury: And if thereupon the plea shall be found false, the complainant shall have the same advantages as if it had been so found by verdict at common law. Ibid.—s. 20.

SEC. XLII. IF a plea or demurrer be over-ruled, no other plea or demurrer shall be thereafter received, but the defendant shall answer the allegations of the bill. Ibid.—s. 21.

SEC. XLIII. IF the complainant shall not proceed to reply to, or set for hearing, as before mentioned, any plea or demurrer before the second court after filing the same, the bill may be dismissed of course with costs. Ibid.—s. 22.

SEC. XLIV. UPON a plea or demurrer argued and over-ruled, costs shall be paid as where an answer is judged insufficient, and the defendant shall answer within two calendar months after; but if adjudged good, the defendant shall have his costs. Ibid.—s. 23.

SEC. XLV. IF any defendant, after a demurrer shall have been over-ruled, shall refuse to answer, the bill shall be taken as confessed, and the matter thereof decreed. Ibid.—s. 24.

SEC. XLVI. AFTER any bill filed, and before the defendant hath answered, upon oath made that any of the complainant's witnesses are aged or infirm, or going out of the country, the clerk may issue a commission for taking the examination of such witnesses *de bene esse*, the party praying such commission giving reasonable notice to the adverse party of the time and place of taking the depositions. Ibid.—s. 25.

SEC. XLVII. WHENEVER a witness or witnesses shall reside without the state, the said High Court of Chancery or the judge thereof, upon an affidavit of the fact, may award a commission or commissions for taking his, her, or their deposition or depositions, to be directed to any persons he may think proper; and such deposition or depositions shall be admitted as evidence if it shall appear that the opposite party had received reasonable notice of the time and place of taking the same. 1787. ch. 9. s. 2.

SEC. XLVIII. WHEREAS great inconvenience may arise to the suitors in the several Courts of this commonwealth, who are litigant with persons residing without this commonwealth, and have not agents or attorneys within the same, by the death or removal of witnesses whose depositions cannot legally be taken for want of notice to such absent persons: Oa. 1783. ch. 26. s. 1.

SEC. XLIX. BE it therefore enacted, That when any commission to take the deposition of a witness in a suit depending in any of the Courts of this commonwealth, where the plaintiff or defendant in such suit doth not reside within the same, or hath not an agent or attorney within the same, to whom notice of the time and

place of taking such deposition can be given, then the person obtaining such commission, having published in the Virginia Gazette, four weeks successively, the time and place when and where the witness is to be examined, and the name of the witness, together with the names of the parties to the suit in which such witness is to be examined, it shall and may be lawful for any plaintiff or defendant as aforesaid, to proceed to take any deposition authorized by the commission issuing from the Court agreeable to law, where the suit depends as aforesaid; and such deposition, when taken and returned to the clerk's office agreeable to the rules of the Court from whence the commission issued, shall there be filed and allowed to be read in evidence, in the same manner and under the like restrictions, as if notice had been duly given to the opposite party; any law, usage or custom, to the contrary in any wise, notwithstanding. And the printer may demand and receive the sum of twelve shillings for publishing such advertisement four weeks, which shall be taxed in the bill of costs if the party chargeable therewith shall prevail in the suit.

1787. ch. 9.
s. 2. SEC. L. WHENEVER a general commission shall issue for taking depositions upon answer and replication, six months from the time of the replication shall be allowed the parties for taking their depositions; and either party, at the expiration of the said six months, may set the same for hearing, nor shall any deposition taken after that time be read as evidence on the hearing, except the same was taken by consent of the parties, by special order of Court, or out of the state.

Oct. 1777. ch.
15. s. 28. SEC. LI. THE Court in their sittings may regulate all proceedings in the office, and for good cause shewn may set aside any dismissions, and reinstate the suits on such terms as shall appear equitable.

SEC. LII. FOR prevention of errors in entering up the decrees and orders of the Court, the proceedings of every day shall be drawn up at large by the clerk, and read in open Court the next day, except those of the last day of each term, which shall be drawn up, read, and corrected, the same day, and any necessary corrections made therein, when they shall be signed by the judge of the Court, and preserved among the records.

Ibid.—s. 30. SEC. LIII. AND for the more entire and better preservation of the records of the Court, when any cause shall be finally determined, the clerk shall enter all the pleadings therein, and other matters relating thereto together, in a book to be kept for that purpose, so that an entire and perfect record may be made thereof, and those wherein the title to lands is determined shall be entered in separate books to be kept for that purpose only.

Ibid.—s. 31. SEC. LIV. THE Court in session, or the judge in vacation, may grant writs of *certiorari* for removing before the said Court the proceedings in any suit in Chancery depending in any county or other inferior court, writs of *ne exeat* to prevent the departure of any defendant out of the country until security be given for performing the decree, and writs of injunction to stay execution of judgments obtained in any of the courts of common law, subject nevertheless to the rules following:

Ibid.—s. 32. SEC. LV. NO writ of *certiorari* shall be granted to remove any suit unless the matter in dispute be of value sufficient to entitle the high Court of Chancery to original jurisdiction therein, nor unless ten days notice of the motion be given in writing to the adverse party, nor in vacation but upon such petition and affidavit as are by law directed for writs of *certiorari* to be granted by the District Court; and in all cases, bond and security shall be given for performing the decree of the said High Court of Chancery, before the issuing of the *certiorari*.

Ibid.—s. 33. SEC. LVI. WRITS of *ne exeat* shall not be granted but upon a bill filed and affidavits made to the truth of its allegations, which being produced to the court in term time, or the judge in vacation, such writ may be granted or refused as shall seem just; and if granted, he shall direct to be endorsed therein in what penalty bond and security shall be required of the defendant.

SEC. LVII. IF the defendant shall by answer satisfy the Court that there is no reason for his restraint, or give sufficient security to perform the decree, the writ may be discharged. Oa. 1777. ch. 15. s. 34.

SEC. LVIII. NO injunction shall be granted to stay proceedings in any suit at law unless the matter in dispute be of value sufficient to admit of original jurisdiction in the said High Court of Chancery, nor unless the Court in term time, or the judge thereof in vacation, shall be satisfied of the plaintiff's equity, either by affidavit, certified at the foot of the bill, that the allegations thereof are true, or by other means, and shall order the same. Ibid.—s. 35.

SEC. LIX. WHERE any injunction shall be granted, the clerk shall endorse on the subpoena, that the effect thereof is to be suspended until the party obtaining the same shall give bond, with sufficient security, in the office of the court in which the judgment to be enjoined shall have been obtained. 1787 ch. 9 s. 4.

SEC. LX. THE party obtaining the injunction shall then enter into bond with sufficient security, and file the same in the clerk's office of that Court in which the proceedings at law were had, for paying all money and tobacco and costs due, or to become due to the plaintiff in the action at law, and also all such costs as shall be awarded against him or her in case the injunction shall be dissolved; and the clerk shall endorse upon the subpoena that the bond is filed. Ibid.

SEC. LXI. IT shall be lawful for the High Court of Chancery in such cases as may require a report, which cannot be performed without great delay to other business, to employ one or more commissioners, and to cause a reasonable allowance to be taxed in the bill of costs. 1788. ch. 69.

SEC. LXII. IF any defendant or defendants shall be in custody upon any process of contempt, and be brought into Court by virtue of a writ of *habeas corpus*, or other process and shall refuse or neglect to enter his or her appearance according to the rules of the Court, or appoint an attorney of the Court to do the same for him, the Court in such case may direct an attorney to enter an appearance for the defendant or defendants, and thereupon such proceedings may be had as if he or they had actually entered an appearance; but if such defendant or defendants shall be in custody at the time a decree shall be made upon refusal or neglect to enter an appearance or to appoint an attorney as aforesaid, or shall be forth-coming so as to be served with a copy of the decree, then such defendant or defendants shall be served with such copy before any process shall be taken out to compel the performance thereof, and if such defendant or defendants shall die in custody before such service, then his heir, if any real estate be sequestered or affected by such decree, or if only personal estate, his executor or administrator shall be served with a copy in a reasonable time after such death shall be known to the plaintiff, and who is such heir, executor, or administrator. Oa. 1777. ch. 15. s. 38.

SEC. LXIII. THE the judge of the said Court shall receive an annual salary of three hundred pounds, to be paid by the treasurer out of any public money in his hands. Ibid.—s. 40.

ALL acts and parts of acts within the purview of this act, shall be, and are hereby repealed.

A BILL reducing into one, the several acts, and parts of acts, concerning the General Court, and prescribing the manner of proceeding therein in certain cases.

SECTION I. **B**E it enacted by the General Assembly, That the General Court of this commonwealth shall consist of ten judges, to be chosen and commissioned in the manner directed by the constitution of the commonwealth.

SEC. II. ANY three of the said judges shall constitute a Court, except in cases of impeachment, on which occasion a majority of the whole number shall be necessary.

SEC. III. THE said Court shall be holden at the capitol in the city of Richmond, or at such other place as shall be appointed by the General Assembly, or in their recess, by the Governor with the advice of the Council of State, on any such emergency as will make the adjournment lawful.

SEC. IV. THE said Court shall be holden twice in every year, namely, on the ninth day of June, and the ninth day of November, or if either of those days shall happen to be Sunday, then on the succeeding day, and shall continue their session for sixteen juridical days at each term, unless the business before them be sooner dispatched.

OR. 1777. ch.
17. s. 5.

SEC. V. IF it should so happen that a sufficient number of judges should not attend on the first day of any term, or on any other day during the term, any one of the said judges may adjourn the Court from day to day for six days successively, and if a sufficient number should not then be able to attend, all suits depending in such Court shall stand continued over to the next succeeding term.

SEC. VI. EVERY person so commissioned before he enters upon the duties of his office, shall take and subscribe the oath of fidelity to the commonwealth, and take the following oath of office, to wit:—" You shall swear that well and truly you will serve this commonwealth in the office of a judge of the General Court, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to law, without respect of persons. You shall not take by yourself, or by any other, privily or openly, any gift, fee, or reward, of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done, or to be done, by virtue of your office, except such fees or salary as shall be by law appointed. You shall not maintain by yourself, or other, privily or openly, any plea or quarrel depending in the courts of this commonwealth. You shall not deny or delay any person of common right for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to the law, you shall nothing do for such letter or request, but you shall proceed to do the law, any such letter or request notwithstanding; and finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial justice, without fraud, favor, affection or partiality. SO HELP YOU GOD."— Which oaths may be taken before the Executive, any court of record, or a justice of the peace, and a certificate thereof being obtained, shall enable such judge to do all the duties of his office; and such certificate shall be recorded in the General Court, or District Court, where such judge shall first sit.

SEC. VII. IF any person shall presume to sit in court or execute the said office without having taken the said oaths, he shall for such offence forfeit the sum of five hundred pounds.

SEC. VIII. THE said Court shall have power from time to time to appoint a clerk, one or more assistant clerks, if necessary, a cryer and tipstaff, who shall hold their offices respectively during good behaviour, and be entitled to such fees or salaries as shall be established by law: And the sheriff, or so many of the under-sheriffs as shall be thought necessary, of the county where such Court may be held, shall attend the said Court during their sessions.

SEC. IX. THE jurisdiction of the said Court shall be general over all causes, matters and things at common law, as well criminal as civil, except in such cases, as by the Constitution of the United States of America, or of this commonwealth, or any statute made by the Congress of the said United States, or the General

Assembly of this commonwealth, are or shall be vested in any other tribunal; in any of which cases, the jurisdiction of the General Court shall cease, unless concurrent jurisdiction be thereto expressly given by this act, or some other statute.

SEC. X. THE said Court shall have jurisdiction in all causes, matters and things therein depending at the commencement of this act; and no discontinuance shall take place in any case whatsoever, by reason of the passing of this act.

SEC. XI. THE said Court shall continue to have jurisdiction in all cases, suits, 1788. c. 67, and motions against public debtors, and public defaulters of every denomination, s. 117. for and in behalf of the commonwealth.

SEC. XII. IF the judge of the High Court of Chancery shall be interested in Ib. c. 69. s. 7. any matter, which in the case of any other person would have been proper for the jurisdiction of such Court, it shall be lawful to institute such suit in the General Court, where proceedings shall be had conformably to the principles and usages of equity, and process shall be returnable as the General Court shall direct; and thereafter an appeal may be had to the Court of Appeals.

SEC. XIII. WRITS of *scire facias* may be issued from, and be tried in the General Court, upon all judgments which have been or shall be obtained therein; Ib.—ch. 67. s. 117. the said Court may fine sheriffs, deputy sheriffs, or coroners, for not returning executions issued, or to be issued from the said Court, and enter up judgments against the said officers, for all money or tobacco for which they have made, or shall make themselves respectively liable by law upon such executions; may award executions upon replevy bonds, or bonds to have goods forth-coming at the day of sale; may quash executions if illegally or improvidently issued or executed, and award new ones; and finally, may exercise full jurisdiction in every other legal mode necessary for carrying into complete execution all judgments heretofore given, or hereafter to be given in the said Court; any law to the contrary, or seeming to the contrary, notwithstanding.

SEC. XIV. THE said Court shall have power to issue writs of *mandamus* to Ib.—ib.—ib. the District Courts.

SEC. XV. THE said Court shall likewise have jurisdiction to hear and determine motions against the delinquent subscribers of the Patowmac and James river companies, and for securities against their principals; and for sheriffs against their deputies and securities, or either of them; and to ascertain the average price of tobacco.

SEC. XVI. FOR good cause shewn, the General Court may direct the trial of any cause depending before a District Court, to be had by a jury at their own bar; for which purpose the sheriff or any other officer attending them, shall summon a jury qualified as the law now directs in cases of juries in the General Court; or may cause a suit depending in one district to be tried in another. Ibid. ib. s. 119 1789. c. 13. s. 23

SEC. XVII. UNLESS good cause be shewn to the contrary, the General Court shall direct a suit depending before a District Court, in which a judge of the General Court is a party, to be removed to be tried at the bar of the General Court.

SEC. XVIII. THE General Court shall have jurisdiction and authority to 1789.—c. 13. s. 4 hear and determine all causes, matters, suits, and controversies testamentary, which shall be brought before the same, and to examine and take the proofs of wills, and to hear and determine the right of administration of the estates of persons

dying intestate, and to do all other things concerning wills and administrations, according to law.

SEC. XIX. THE said Court shall have power and authority to receive probat of all deeds whatsoever concerning lands in any part of this commonwealth, to issue commissions for the privy examination of any feme-covert, and to admit the same to record; as also to receive proof of any other deed, or instrument of writing whatsoever, and to admit the same to be recorded therein, if they shall be of opinion that the same is proper to be done.

SEC. XX. A DEED for lands now or at any time hereafter, partly proved in the General Court, may either be fully proved there, or shall be delivered by the clerk thereof to any person authorized to demand the same, with an endorsement of the proof made, and it may be fully proved and recorded in the Court of the District in which the lands lie.

SEC. XXI. IF a question of law in any criminal case, be adjourned to the General Court by any District Court, the same may be therein argued and determined, although such criminal be not present.

SEC. XXII. ON the adjournment of any question of law in any civil suit, the said Court shall hear, determine, and certify such their determination on the same, to the Court from whence the question was adjourned: But no costs shall be incurred on any adjourned question.

Octob. 1777,
ch. 17, s. 7. SEC. XXIII. ALL original process to bring any person or persons to answer in any action or suit, information, bill, or plaint, in the said Court, and all subsequent process thereon, all attachments, or other writs, of what nature soever, awarded by the said Court, shall be issued and signed by the clerk of the said Court in the name of the commonwealth, shall bear teste by the clerk, and be returnable on the first day of the next succeeding Court, except subpoenas for witnesses; and all such process may be executed at any time before the return day, except in such cases wherein it is otherwise directed by law.

1788.—c. 67,
s. 118.

SEC. XXIV. THE appearance day to all writs and process awarded by the said Court, shall be according to the direction thereof.

1789.—c. 13,
s. 30. SEC. XXV. THE General Court and the clerk thereof, may grant commissions for the examination of witnesses in the causes therein depending, in the same manner as a District Court, and the clerk thereof respectively.

SEC. XXVI. THE sheriff for the time being, of the county in which the General Court shall be held, shall, before every meeting of the General Court, summon twenty-four freeholders of this commonwealth, qualified as the laws direct, for grand jurors, to appear at the succeeding General Court, on the first day thereof, which the sheriff is hereby empowered to do, as well without his county as within the same; and the said twenty-four men, or any sixteen of them, shall be a grand jury, who shall be sworn to enquire of, and present all offences against the commonwealth, which are cognizable in the said Court; as also to ascertain the true average price of tobacco within this commonwealth: And if any indictment shall be found, or presentment made of any such offence, the like proceedings shall be thereupon had to bring the party accused before the Court, as on indictments and presentments in the District Courts, having regard to the nature of the offence.

SEC. XXVII. THE rules and proceedings in the General Court in all cases not otherwise specially directed shall be the same as in the District Courts in similar cases.

SEC. XXVIII. THE keeper of the public jail shall constantly attend the General Court and execute the commands of the Court.

SEC. XXIX. THE salary of a judge of the General Court shall be three hundred pounds per annum, and be paid quarterly out of any money in the treasury.

SEC. XXX. THE clerk of the General Court shall, annually, before the last day of January, transmit to the sheriff of each county within the commonwealth, a list of all fines imposed by the said Court, in the year next preceding, to the use of the commonwealth, on persons residing in such county: and the sheriffs shall, respectively, proceed to collect, levy, account for, and pay, the same in like manner, and subject to the same remedy and proceedings against them for default, as is or shall be directed in case of public taxes, being allowed in their accounts for insolvents, and five per centum commissions; and the said clerk shall transmit copies of such lists to the Auditor to enable him to call the sheriffs to account.

ALL and every act, clause and parts of acts, within the purview of this act shall be, and are, hereby repealed.

A BILL reducing into one, the several Acts concerning the Establishment, Jurisdiction, and Powers of District Courts.

SECTION I. **B**E it enacted by the General Assembly, That this commonwealth shall be divided into districts, and a Superior Court holden in each in the manner, and at the times and places herein after mentioned; that is to say: The counties of Henrico, Hanover, Chesterfield, Goochland and Powhatan shall compose one district, and a Court shall be holden for the same at the capitol in the city of Richmond on the first day of April, and the first day of September in every year: The counties of James-City, Charles-City, New-Kent, Surry, Gloucester, Mathews, York, Warwick, and Elizabeth-City, shall compose another district, and a court shall be holden for the same at the city of Williamsburg in the former capitol, on the twenty-ninth day of April, and the twenty-ninth day of September in every year: The counties of Richmond, Westmoreland, Lancaster, and Northumberland, shall compose another district, and a court shall be holden for the same at Northumberland court-house on the first day of April, and first day of September in every year: The counties of Essex, Middlesex, King & Queen, and King-William, shall compose another district, and a court shall be holden for the same at King & Queen court-house on the fifteenth day of April, and fifteenth day of September in every year: The counties of Spottsylvania, Caroline, King-George, Stafford, Orange, and Culpeper, shall compose another district, and a court shall be holden for the same at Fredericksburg on the twenty-ninth day of April, and the twenty-ninth day of September in every year: The counties of Frederick, Berkeley, Hampshire, Hardy, and Shenandoah shall compose another district, and a Court shall be holden for the same at Winchester on the fifteenth day of April, and the first day of September in every year: The counties of Augusta, Bath, Rockbridge, Rockingham, and Pendleton, shall compose another district, and a court shall be holden for the same at Staunton on the first day of April, and the first day of September in every year: The counties of Albemarle, Louisa, Fluvanna, and Amherst shall compose another district, and a court shall be holden for the same at Charlottesville on the fifteenth day of April, and the fifteenth day of September in every year: The counties of Fairfax, Fauquier, Loudoun, and Prince William shall compose another district, and a court shall be holden for the same at Dumfries on the twelfth day of May, and the twelfth day of October in every year: The counties of Harrison, Monongalia, Ohio, and Randolph shall compose another district, and a court shall be holden for the same at Monongalia court-house, on the third day of May, and the twentieth day of September in every year: The counties of Montgomery, Washington, Russell, and Wythe, shall compose another district, and a court shall be holden for the same at Washington court-house on the second day of May, and the second day of October in every year: The counties of Norfolk, Isle of Wight, Princess Anne, Nansemond, and Southampton shall compose another district, and a court shall be holden for the

same at Suffolk on the twelfth day of May, and the twelfth day of October in every year: The counties of Prince George, Sussex, Dinwiddie, Nottoway, and Amelia shall compose another district, and a court shall be holden for the same at Petersburg on the fifteenth day of April, and the fifteenth day of September in every year: The counties of Brunswick, Greenville, Lunenburg, and Mecklenburg, shall compose another district, and a court shall be holden for the same at Brunswick court-house on the twenty-ninth day of April, and the twenty-ninth day of September in every year: The counties of Prince-Edward, Buckingham, Charlotte, Halifax, and Cumberland shall compose another district, and a court shall be holden for the same at Prince-Edward court-house on the first day of April, and the first day of September in every year: The counties of Bedford, Campbell, Franklin, Pittsylvania, Patrick, and Henry shall compose another district, and a court shall be holden for the same at New-London in the late court-house of Bedford county, now belonging to James and John Calloway, who have agreed to put the same in repair at their own expense, for the use of the District Court so to be holden in New-London, on the fifteenth day of April, and the fifteenth day of September in every year: The counties of Accomack and Northampton, shall compose another district, and a court shall be holden for the same at Accomack court-house on the fourteenth day of May, and the fourteenth day of October in every year: The counties of Greenbrier, Botetourt, and Kanawha, shall compose another district, and a court shall be holden for the same at Lewisburg in Greenbrier, and Botetourt court-house alternately, on the eighteenth day of May, and the eighteenth day of October in every year, until the proprietor of the Sweet Springs shall erect a sufficient court-house and prison for the purposes of this act, after which time the Sweet Springs shall become the seat of the District Court: And if any of the said several days happen to be Sunday, the courts shall in that case respectively, begin on the succeeding day. Each court shall sit, if business require it, ten days successively, Sundays exclusive, and no longer, and shall be a Court of Record.

1788. ch. 67.
§. 2.

SEC. II. AND whereas there is not any courthouse in the town of Petersburg, wherein the District Court can hold their sessions, and it is necessary some place should be fixed on for holding the said courts, as also for ascertaining the place whereon the courthouse and prison shall be built: *Be it therefore enacted,* That, until the public buildings shall be erected, the said court shall hold their sessions in the house of Robert Armistead, in the said town, and that the courthouse and prison be built on the lands of Erasmus Gill, in the said town, if he be willing to erect the same at his own expense, and the situation on such lands be as convenient in the opinion of the county court of Dinwiddie, as any other place which may be offered for that purpose; and that after the same shall be completed, the court shall be holden in such courthouse: But in case the said Erasmus Gill shall refuse to erect the necessary public buildings, or the said county court shall deem the situation on his land inconvenient or improper, that then the said court are hereby empowered to fix on the lands of any other person within the said town whereon the said buildings shall be erected, who may be willing to erect the same at his or her own expense.

Ibid.—§. 3.

SEC. III. THOSE counties which shall hereafter be made, shall, if taken from one county, or from two or more counties lying in the same district, remain in the district to which they formerly belonged; and if taken from two or more counties lying in different districts, the counties so to be made, shall be annexed (unless it be otherwise declared by the legislature) to such of the districts in which the old counties lie, as shall be approved by the Executive, subject to the revision of the General Assembly.

Ibid.—§. 4.

SEC. IV. IT shall be the duty of the judges of the General Court to attend the District Courts, allotting among themselves half-yearly, the districts they shall respectively attend at the succeeding terms thereof. Two to each court, who shall be judges of the court to which they shall be allotted; which allotment shall be certified under the hands and seals of the judges making the same, and entered upon the records of the General Court, and District Courts at their next terms to be holden respectively: And the said judges shall constitute a court for such districts. In case of a temporary appointment of a judge made by the Executive after the half-yearly allotment of districts as aforesaid, such judge shall take the place of him in whose stead he was appointed: *Provided nevertheless,* That if any one of the said judges shall not attend the court to which he shall be so allotted, in such case the other judge shall constitute a court under the restrictions herein-after mentioned.

SEC. V. EACH judge of the General Court, besides the oaths required by law to be taken by him as such, shall take another oath as judge of the District Courts, in the same form as that prescribed by law for a judge of the General Court, changing the words, "General Court," for "District Courts;" which oaths may be taken before the Executive, any court of record, or a justice of the peace, and a certificate thereof being obtained, shall enable him to do all the duties of office, and to act as a general conservator of the peace throughout the commonwealth. Such certificate shall be recorded in the General Court or District Court where such judge shall first sit. 1788. c. 67, s. 6. 1789.—c. 13. s. 12.

SEC. VI. ANY person appointed a judge of the General Court, may act as a judge of the District Courts, without having taken the oaths as a judge of General Court. Ib. ib. s. 11.

SEC. VII. ANY judge who shall sit as a judge of a District Court, without having taken the oaths herein required to be taken by him, shall forfeit the sum of five hundred pounds, to be recovered by action of debt, or information, in any court of record, one half to the use of the commonwealth, and the other half to the use of the informer. 1788. ch. 67. s. 7.

SEC. VIII. IF neither of the judges shall attend on the first day of any District Court, such court shall stand adjourned from day to day, until a court shall be made, if that shall happen before four of the clock in the afternoon of the sixth day. Ib. ib. s. 8.

SEC. IX. IF a court shall not sit in any term, or shall not continue to sit the whole term, or before the end of the term shall not have heard and determined all matters ready for their decision, all such suits and things depending in court and undecided, shall stand continued to the next succeeding term. Ib. ib. s. 9.

SEC. X. IF from any cause the court shall not sit on any day in a term after it shall have been opened, there shall be no discontinuance. But so soon as the cause is removed, the court shall proceed to business, until the end of the term, if the business depending before them be not sooner dispatched. Ib. ib. s. 10.

SEC. XI. THE jurisdiction of the said courts respectively, shall be over all persons, and in all causes, matters, or things at common law, which were cognizable in the General Court on the twenty-second day of December, one thousand seven hundred and eighty-eight, and which shall amount to thirty pounds, or three thousand pounds of tobacco, whether brought before them by original process, by *habeas corpus*, appeal, writ of error, *supersedeas*, *mandamus*, *certiorari*, to remove proceedings on a forcible entry or detainer, or for any other purpose, or by any legal ways or means whatsoever, except in the cases herein-after mentioned, and such cases as by the constitution of this commonwealth, or some particular statute heretofore made, or hereafter to be made, are or shall be exclusively vested in, or reserved to the General Court. They shall also have the same jurisdiction concerning mills, wills, roads, and letters of administration, orphans and guardians*, public debtors, whether sheriffs, or others, and the recording of deeds for lands and other property within the district, and caveats, as the General Court heretofore had by law; and the said courts shall hear and determine all controversies touching the same. *Provided also*, That writs of *habeas corpus*, appeal, error, Ib. ib. s. 11.

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superfedeas, mandamus, and certiorari, and controversies concerning mills, wills, roads, caveats, and letters of administration, shall not be heard or determined by any District Court, unless such writ of error, *superfedeas, mandamus, and certiorari*, relate to some record or proceeding within the said district, or the person praying the *habeas corpus*, or the mills, or roads, or lands for which the caveats have been instituted, be within the same, or the wills or letters of administration be cognizable by the court of some county within the said district.

1788. c. 67. s. 12. SEC. XII. THOSE cases in which the Court of Admiralty heretofore had jurisdiction by law, and which are not taken away by the constitution of the United States, are hereby transferred to the District Court, to be proceeded on as the law requires in the said Court of Admiralty.

Ib. ib. s. 13. SEC. XIII. THE court shall have power to try all issues, and enquire of damages by a jury, in all causes before them, and to determine all questions concerning the legality of evidence, and other matters of law, which may arise; for which trial the court shall cause the sheriff attending them, to summon, impanel, and return jurors.

Ib. ib. s. 14. SEC. XIV. THE court shall hear and determine motions against sheriffs, or other officers, and attorneys at law, for refusing to pay money due to clients; for the directors of the James river and Patowmac companies, and for securities against their principals, or against each other, for contribution in all cases, and according to the rules prescribed by law.

Ib. ib. s. 16. SEC. XV. THE court, when a question new or difficult arises, may adjourn any matter of law to the General Court, or any party thinking himself aggrieved by the judgment of the District Court, may appeal thereupon as of right, or obtain a writ of error thereto from the Court of Appeals, not of right, but at the discretion of the court.

Ib. ib. s. 17. SEC. XVI. ON an adjournment of a question to the General Court, or an appeal or writ of error to the Court of Appeals, the same proceedings shall be had as in cases heretofore going from the General Court to the Court of Appeals, but no costs shall be incurred on any adjourned question.

Ib. ib. s. 20. SEC. XVII. WHENSOEVER there shall be a vacancy in the office of clerk of any District Court, it shall be lawful for a majority of the judges of the General Court to appoint, by commission under their hands and seals. *Provided*, That when such vacancy shall happen during the session of a District Court, or the judges of the General Court shall neglect to supply any vacancy until the ensuing session of the District Court, in which the vacancy shall be, it shall be lawful for the judges attending such District Court to appoint a clerk by commission under their hands and seals, which shall be as valid and effectual as if granted by a majority of the judges of the General Court. And where the clerk of any District Court cannot attend, it may be lawful for the judge or judges of such court, to appoint a clerk *pro tempore*.

Ib. ib. s. 19. SEC. XVIII. EVERY person appointed clerk of any District Court, having taken the oath for giving assurance of fidelity to the commonwealth and the oath required to be taken by clerks of Courts, adapting the same to the District Court, shall thenceforth be enabled to execute the duties of his office; which oaths may be taken by the clerks respectively, before any court of record in the commonwealth, and a certificate thereof shall be entered of record in his district, wherein at the first session after his appointment he shall moreover enter into bond, with sufficient security, in the penalty of three thousand pounds, payable to the governor or chief magistrate, and his successors, with condition for the faithful performance of his duty; which bond may be put in suit for the benefit, and at the costs of any person or persons aggrieved by the nonfeasance or misfeasance of the

clerk, as often as there shall be occasion, until the whole penalty shall be recovered or levied. Each clerk shall hold his office during good behaviour, shall be removeable on conviction upon an indictment or information, for mis-user or non-user in office, and shall reside and keep his office at the District Court-house of which he is clerk, but when it is held alternately at different court-houses, then he shall keep his office either at the one or the other court-house, as he may think best.

SEC. XIX. THE clerks fees shall be the same with those of the county courts ^{1788.—c. 67,} for similar services, and for all other services, the same as those of the clerk of ^{s. 21.} the General Court, and shall be collected and accounted for in the same manner, and under the same penalties, as those of clerks of the county courts now are.

SEC. XX. A tax of six shillings shall be, and is hereby imposed on all final judgments in the District Court which shall be paid by the party obtaining the same to the clerk of the court, before such judgment shall be entered, and taxed in the bill of costs, and in all other respects the tax on process in the District Courts shall be the same, and be taxed in the bill of costs in like manner as is by law directed, concerning process in the General Court, and the taxes on appeals from the District Courts, and also on attorneys practising therein, shall be the same; to be collected, accounted for, and paid by the clerks respectively, in the like manner, and subject to the same mode of proceeding against them for default, as is directed for the taxes in the county courts.

SEC. XXI. BUT no tax shall be demanded on the judgments rendered on any ^{1789.—c. 13,} appeal, writ of error, superedeas, special verdict, or case agreed, transferred from ^{s. 2.} the General Court to the District Courts.

SEC. XXII. THE District Courts to be held as aforesaid, shall have full ^{1788—ch. 67,} power to hear and determine all treasons, murders, felonies, and other crimes and ^{s. 15.} misdemeanors, committed within their district, and which shall be brought before them under the regulations herein after prescribed; that is to say:

SEC. XXIII. IN all criminal cases where the charge shall be of such a nature as ^{Ib. ib. s. 14.} in case of conviction, to subject the party to capital punishment or burning in the hand, two judges shall be necessary to proceed upon the trial of the issue, whether in law or fact: *Provided always*, That if only one judge shall attend the said court, and any prisoner shall notwithstanding petition to be brought to trial, in such case, one judge shall constitute a court for such purpose. When two judges shall attend all questions arising in criminal cases, and submitted to the court, in case the court shall be divided, shall be considered as adjudged in favor of the criminal; and if the court shall be divided upon the final judgment or sentence, judgment shall be entered up in favor of the prisoner, and he forthwith discharged.

SEC. XXIV. WHEN two judges do not attend all criminal cases depending ^{Ib. ib. s. 8.} in such court, and not tried upon the consent and petition of the prisoner, where the punishment shall be death or burning in the hand, shall stand continued over to the next court to be holden for that district; and if two judges do not attend at such next court, every prisoner, whose cause has been so continued over shall be bailed as of right, which bail shall be according to the degree of the offence, and the ability of the prisoner. And if such prisoner shall appear on the first day of the next term, and render himself pursuant to his recognizance, and there shall not be a sufficient court to try such prisoner on or before the third day of that court, such prisoner shall be forthwith discharged.

SEC. XXV. *PROVIDED always*, That any one judge may hear and deter- ^{1789. ch. 13,} mine a motion in behalf of the commonwealth, for giving judgment and awarding of ^{s. 16.} execution against any person convicted of a capital offence, where such criminal shall escape between the conviction and the sentence; or against any person attainted of a capital offence, where the day of execution shall have passed, and no pardon or reprieve shall have been granted.

1789. ch. 13. SEC. XXVI. A DISTRICT Court may adjourn a question of law in any criminal case, to the General Court, with the consent of the criminal, which may be there argued and decided, although such criminal be not present.
s. 27.

1788. ch. 67. SEC. XXVII. A PUBLIC gaoler shall be appointed to each district, by the Governor and Council, shall give bond and security to the Governor and his successors, as the public gaoler in the city of Richmond now does, and shall be amenable to the judges of such court, in like manner as the keeper of the public gaol hath heretofore been to the judges of the General Court. And the judges attending each District Court, shall have authority to superintend and regulate the district gaol, in the same manner as the General Court had to regulate and superintend the public gaol. *Provided nevertheless*, That whenever the gaol of a county is used as a district gaol, the keeper of the county gaol, and no other, shall act as keeper of the gaol of the said district.
s. 96.

1788. ch. 67. SEC. XXVIII. THE gaoler, during his continuance in office, shall be exempted from serving in the militia, and on juries.
s. 97.

Ib. ib. s. 98. SEC. XXIX. THE keeper of the district gaol shall constantly attend the said court, and execute the commands of the said court, from time to time, and take or receive into his custody, all persons by the court to him committed on original or mesne process, or in execution in any civil suit, or for any contempt of the court, and him or them safely keep until thence discharged by due course of law, and may demand of every such prisoner, the legal fees for diet and care; but where such prisoner is so poor as not to be able to support him or herself in prison, the gaoler shall be allowed by the public one shilling per day, for the maintenance of every such poor prisoner, and no security shall be demanded of him or her, nor shall he or she be detained for such prison fees.

Ib. ib. s. 99. SEC. XXX. THE keeper of the district gaol, by order of any two justices, of his county, may impress guards for the safe keeping of all prisoners in his custody, to be paid by the public.

Ib. ib. s. 100. SEC. XXXI. THE fee to the sheriff of the county, and to the district gaoler, for keeping and dieting any such prisoner, shall be one shilling per day.

SEC. XXXII. PRISON rules and bounds shall be assigned by the District Courts.

1789. ch. 13. SEC. XXXIII. TO prevent misconstruction, it is hereby declared, that the sheriff of the county in which any District Court shall sit, shall execute all judgments rendered by such court in any criminal case, provided such judgments are by law to be executed in the said county.
s. 32.

Ib. ib. s. 36. SEC. XXXIV. EVERY District Court may make a reasonable allowance to the sheriff and gaoler attending the same, for their trouble, as well for their services heretofore rendered, as those in future to be by them performed, to be paid as the cryer of the General Court. And the auditor of public accounts is hereby required to issue warrants in favor of such persons as have heretofore acted as cryers in the several District Courts, agreeably to the certificates of the clerks of the said courts, to be paid in the same manner as the cryer of the General Court.

Ib. ib. s. 19. SEC. XXXV. IT shall be lawful for the same judge to attend the same District Court twice successively.

SEC. XXXVI. THE judges of the Court of Appeals shall direct the forms of writs, from time to time, in such manner as shall seem advisable, and until an alteration be made therein, the forms shall be, as nearly as may be, assimilated to those now used in the General Court. 1788. c. 67. s. 22.

SEC. XXXVII. ALL writs, summonses, and other legal process, shall be issued by the clerk, bear teste in his name, and be returnable to the next court to be holden for the district, except in the case of subpoenas for witnesses, which may be returnable immediately, if issued in term time, or on any day of the term. Ib. ib. s. 23.

SEC. XXXVIII. WRITS of *habeas corpus* may be granted without a seal, pursuing in all other respects, the act, intituled, "An act directing the mode of suing out and prosecuting writs of *habeas corpus*," and in all cases in which they are now obtainable by law from the General Court. Ib. ib. s. 24.

SEC. XXXIX. IN all actions or suits which may be commenced against the Governor of this commonwealth, any member of the Privy Council, any of the judges of the Superior Courts, or the sheriff of any county, during his continuance in office, instead of the ordinary process, a summons shall issue to the sheriff, or other proper officer, reciting the cause of action, and summoning such defendant to appear and answer the same on the proper return day in the next District Court; and if such defendant, being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the court shall proceed against such defendant in the same manner as if he had been taken upon a *capias ad respondendum*. *Provided always*, That after judgment and the return of a *feri facias* by the sheriff of that county in which the defendant in any such case resides, that no effects, or not sufficient are to be found in his bailiwick to satisfy the said judgment, a *capias ad satisfaciendum* may be issued as in other cases. Ib. ib. s. 25.

SEC. XL. NO writ of *capias ad respondendum* shall be issued against any person in any other district than that in which he resides, until a *non est inventus* has been returned in his or her district, upon a *capias* issued against such defendant in the same suit; and every writ issued contrary thereto, shall be *ipso facto* void, and dismissed on the first calling thereof: *Provided nevertheless*, That where two or more persons are or shall be jointly, or jointly and severally bound for the performance of any contract, or for the payment of money or tobacco, by bond, covenant, or otherwise, it shall be lawful to prosecute such persons jointly, in whatever district either of them may reside, and process shall be issued and served accordingly. And where the bond or other writing, on which such suits shall be founded, shall be filed in the General Court, in a county or other inferior court, in the court of one district, and oyer thereof shall be demanded by the defendant, or defendants, to a suit in another district, it shall be sufficient for the plaintiffs in the last mentioned suit, to file a copy of the bond or writing, attested by the clerk of the court wherein the same is filed; and the defendant or defendants, shall be obliged to plead thereto in like manner as if the original bond or writing was filed, and such copy shall be admitted as evidence on the trial. If, however, the defendant or defendants shall, in such case, plead that the original bond or writing is not his or their deed, the clerk of the court having such original paper in his custody, shall, on being summoned as a witness, attend with the same at the trial of the issue, for the inspection of the jury. Ib. ib. s. 26.

SEC. XLI. IN all actions to recover the penalty for breach of any penal law, not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover, or other wrongs, and all personal actions, except such as shall be herein after particularly mentioned, the plaintiff, or his attorney, shall, on pain of having his suit dismissed, with costs, endorse on the original writ, or subsequent process, the true species of action, that the sheriff to whom the same is directed, may be thereby informed whether bail is to be demanded on the execution thereof; and in the cases before mentioned the sheriff may take the engagement of an attorney practising in the District Court, endorsed on the writ, that he will appear for the defendant or defendants, and such appearance shall be entered with the clerk in the office on the first day after the end Ib. ib. s. 27.

of the Court to which such process is returnable, which is hereby declared to be the appearance day in all process returnable to any day of the Court next preceding. Every attorney failing to enter an appearance according to such engagement, shall forfeit to the defendant fifty shillings, for which judgment shall be immediately entered, and execution may issue thereupon. And although no such engagement of an attorney shall be offered to the sheriff, he shall nevertheless be restrained from committing the defendant to prison, or detaining him in his custody, for want of appearance bail; but the sheriff in such case shall return the writ executed, and if the defendant shall fail to appear thereto, there shall be the like proceeding against him only, as is herein after directed against defendants and their appearance bail, where such is taken. *PROVIDED always*, that any judge of the General Court, in actions of trespass, assault and battery, trover and conversion, and, in actions on the case, where, upon proper affidavit, or affirmation, it shall appear to him proper, that the defendant, or defendants, should give appearance bail, may, and he is hereby authorized to direct such bail to be taken by endorsement on the original writ, or subsequent process; and every sheriff shall govern himself accordingly.

1788. ch. 67. s. 28. SEC. XLII. IN all actions of debt founded upon any writing obligatory, bill or note in writing, for the payment of money or tobacco, all actions of covenant or detinue, in which cases the true species of action shall be endorsed on the writ as before directed, and that appearance bail is to be required, the sheriff shall return on the writ, the name of the bail by him taken, and a copy of the bail bond to the clerk's office before the day of appearance; and if the defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery as the defendant might or would be subject to, if he had appeared and given special bail; and in actions of detinue the bail-piece shall be so changed, as to subject the bail to the restitution of the thing, whether animate or inanimate, sued for, or the alternative value as the court may adjudge. And if the sheriff shall not return bail, and the copy of the bail bond, or the bail returned shall be adjudged insufficient by the court, and the defendant shall fail to appear and give special bail, if ruled thereto, in such case the sheriff may have like liberty of defence, and shall be subject to the same recovery, as is provided in the case of appearance bail. And if the sheriff depart this life before judgment be confirmed against him, in such case the judgment shall be confirmed against his executors or administrators, or if there shall not be a certificate of probat or administration granted, then it may be confirmed against his estate, and a writ of *feri facias* may, in either case, be issued: But the plaintiff shall object to the sufficiency of the bail during the sitting of the court next succeeding that to which the writ is returnable, or in the office on the first or second rule day, and at no time thereafter.

Ib. ib. s. 29. SEC. XLIII. AND all questions concerning the sufficiency of bail so objected to in the office, shall be determined by the court at their next succeeding term; and in all cases where the bail shall be judged insufficient and judgment entered against the sheriff, he shall have the same remedy against the estate of the bail, as against the estate of the defendant: And every judgment entered in the office against a defendant and bail, or against a defendant and sheriff, shall be set aside if the defendant at the succeeding court shall be allowed to appear without bail, put in good bail being ruled so to do, or surrender himself in custody, and shall plead to issue immediately; the court shall regulate all other proceedings in the office during the preceding vacation, and rectify any mistakes or errors which may have happened therein. In every case where judgment shall be confirmed against any defendant, or defendants and bail, or the sheriff, his executors, administrators, or estate as aforesaid, the court, upon motion of such bail, or of such sheriff, his executors, or administrators, or any other person on behalf of his estate, may order an attachment against the estate of such defendant or defendants, returnable to the next succeeding court; and upon the execution and return of such attachment, the court shall order the estate seized, or so much thereof as will be sufficient to satisfy the judgment and costs, and all costs accruing under the attachment, to be sold as goods taken in execution upon a *feri facias*; and out of the money such judgment and costs shall be satisfied, and the surplus, if any, restored to the defendant or defendants when required.

Ib. ib. s. 30. SEC. XLIV. ANY judge of the General Court, when the District Court is not sitting, or any justice of the peace, may take recognizance of special bail in

any action therein depending, which shall be transmitted by the person taking the same, before the next succeeding court, to the clerk of the said court, to be filed with the papers in such action; and if the plaintiff or his attorney shall except to the sufficiency of the bail so taken, notice of such exception shall be given to the defendant or his attorney, at least ten days previous to the day on which such exception shall be taken; and if such bail shall be judged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall be had as if no such bail had been taken.

SEC. XLV. EVERY special bail may surrender the principal before the court, 1788. ch. 67.
where the suit hath been or shall be depending at any time either before or after s. 31.
judgment shall be given; provided such surrender be made before the appearance day of the first *scire facias* against the bail, returned executed, or of the second returned *nihil*, but in either case the special bail shall pay the costs of the said *scire facias*, and judgment for the same shall be entered against him accordingly: Upon such surrender, the bail shall be discharged, and the defendant or defendants shall be committed to the custody of the sheriff or gaoler attending such court, if the plaintiff or his attorney shall desire the same, or such special bail may discharge himself or herself by surrendering the principal or principals to the sheriff of the county where the original writ was served, and such sheriff shall receive such defendant or defendants, and commit him, her, or them, to the jail of his county, and shall give a receipt for the body or bodies of such defendant or defendants, which shall be by the bail transmitted to the clerk of the court where the suit is or was depending. When such render after judgment shall be to the sheriff, he shall keep such defendant or defendants in his custody, in the same manner, and subject to the like rules as are provided for debtors committed in execution for the space of twenty days, unless the creditor, his attorney or agent, shall sooner consent to his, her, or their discharge. The bail shall give immediate notice of such render, to the creditor, his attorney or agent, and if within the said twenty days, such creditor, his attorney, or agent, shall not in writing charge the debtor, or debtors in execution, he, she, or they shall be forthwith discharged out of custody; but the plaintiff or plaintiffs may nevertheless afterwards sue out any legal execution against such debtor or debtors, without suing out a *scire facias*.

SEC. XLVI. WHEN the sheriff or other proper officer shall return on any *Ib. ib. s. 32.*
original or mesne process, that he hath taken the body of any defendant and committed him to prison for want of appearance bail, the plaintiff may proceed and the defendant make his defence in like manner as if his appearance bail had been entered and accepted, but the defendant shall not be discharged out of custody, until he shall put in good bail, or the plaintiff shall be ruled by the court to accept an appearance without bail, and where any defendant after appearance entered, shall be confined to prison, the plaintiff may file his declaration, give a rule to plead, and deliver copies of such declaration and rule to the defendant or his attorney; and if the defendant shall fail to enter his plea within two months after receiving such declaration and notice, the plaintiff may have his judgment by default as in other cases.

SEC. XLVII. WHERE the sheriff or other proper officer shall return on any *Ib. ib. s. 33.*
writ of *capias*, to answer in any civil action, that the defendant is not found within his bailiwick, the plaintiff may either sue out an *alias* or a *pluries capias* until the defendant shall be arrested, or a *testatum capias* where he shall be removed into another county, or may, at his election, sue out an attachment against the estate of the defendant to force an appearance; and if the sheriff or other officer shall return that he hath attached any goods, and the defendant shall not appear and replevy the same, by entering his appearance and giving special bail, in case he shall be ruled so to do, the plaintiff shall file his declaration, and be entitled to a judgment for his debt or damages and costs, which judgment shall be final in all actions of debt founded on any specialty, bill, or note in writing, ascertaining the demand unless the plaintiff shall choose in any such case to have a writ of enquiry of damages; and in other cases the damages shall be settled by a jury sworn to enquire thereof. The goods attached shall remain in the hands of the officer till such final judgment be entered, and then be sold in the same manner as goods taken upon a *fieri facias*; and if the judgment shall not be thereby satisfied, the plaintiff may sue out execution for the residue; and in case more goods be attached than will satisfy the judgment, the surplus shall be returned to the defendant.

1788. ch. 67. SEC. XLVIII. IF any writ or process shall be executed, and for want of a
s. 34. return thereof to the office from which it issued, an *alias*, *pluries*, attachment, or other process be awarded, the sheriff shall not execute such subsequent process, but shall return the first process by him executed, if it be in his possession; but if it be not in his possession, then he shall return the subsequent process, with an endorsement of the execution of such first process, and the name of the appearance bail, if any was taken, and shall also return a copy of the bail-bond, on which there shall be the same proceedings, as if the said first process had been duly returned.
- Ib. ib. s. 35. SEC. XLIX. RULES shall be monthly held in the clerk's office of each District Court, beginning the day after the rising of such court.
- Ib. ib. s. 36. SEC. L. THE plaintiff shall file his declaration in the clerk's office, at the next succeeding rule day, after the defendant shall have entered his appearance, or the defendant may then enter a rule for the plaintiff to declare, which if he fail or neglect to do at the succeeding rule day, or shall at any time fail to prosecute his suit, he shall be non-suited, and pay to the defendant or tenant, besides his costs, one hundred and fifty pounds of tobacco, where his place of abode is at the distance of twenty-five miles or under, from the place of holding the said District Court, and where it is more, five pounds of tobacco for every mile above twenty.
- Ib. ib. s. 37. SEC. LI. ONE month after the plaintiff hath filed his declaration, he may give a rule to plead with the clerk, and if the defendant shall not plead accordingly at the expiration of such rule, the plaintiff may enter judgment for his debt or damages, and costs.
- Ib. ib. s. 38. SEC. LII. ALL rules to declare, plead, reply, rejoin, or for other proceedings, shall be given regularly from month to month, shall be entered in a book to be kept for that purpose, and shall expire on the succeeding rule day.
- Ib. ib. s. 39. SEC. LIII. NO plea in abatement shall be admitted, or received, unless the party offering the same, shall prove the truth thereof by oath, or affirmation, as the case may require: And no plea of *non est factum* offered by the person charged as the obligor or grantor of a deed, shall be admitted or received, unless the truth thereof shall in like manner be proved by oath or affirmation. And where any person other than the obligors, shall be defendant, such defendant shall prove by oath or affirmation, that he, or she, verily believes, that the deed on which the action is founded, is not the deed of the person charged as the obligor or grantor thereof; in which last-mentioned case, the plea of *non est factum* shall not be admitted or received without such oath or affirmation. And where a plea in abatement, shall, upon argument, be judged insufficient, the plaintiff shall recover full costs to the time of over-ruling such plea, a lawyer's fee only excepted.
- Ib. ib. s. 40. SEC. LIV. THE plaintiff in replevin, and the defendant in all other actions, may plead as many several matters, whether of law or fact, as he shall think necessary for his defence.
- Ib. ib. s. 41. SEC. LV. ON the return of the *pluries*, that the defendant is not to be found, the court, instead of the process to outlawry formerly used, may order a proclamation to issue, warning the defendant to appear at a certain day therein named, or that judgment will be rendered against him; which proclamation shall be published on three successive court days, at the door of the courthouse of the county to which the last process was directed, and also three times in the Virginia Gazette; and if the defendant fails to appear pursuant to such proclamation, the same proceedings shall be had, and the same judgment given, as in other cases of default.
- Ib. ib. s. 42. SEC. LVI. ALL judgments by default for want of an appearance, or special bail, or pleas as aforesaid, and non-suits or dismissions obtained in the office, and

not set aside, on the third day of the next succeeding District Court, shall be entered by the clerk as of that day; which judgment shall be final in actions of debt founded on any specialty, bill, or note in writing, ascertaining the demand, unless the plaintiff shall choose in any such case to have a writ of enquiry of damages, and in all other cases the damages shall be ascertained by a jury, to be impanelled and sworn to enquire thereof, as is herein-after directed.

SEC. LVII. BEFORE every District Court the clerk shall enter in a particular docket, all such causes (and those only) in which an issue is to be tried, or enquiry of damages to be made, or a special verdict, case agreed, demurrer, or other matter of law is to be argued, in the same order as they stand in the course of proceeding, setting as near as may be, an equal number of causes to each day. * 1788. ch. 67. s. 43.

SEC. LVIII. THE qualification of jurors shall be the same as in the General Court. Ib. ib. s. 49.

SEC. LIX. THE fee for summoning a jury shall be fifty pounds of tobacco, Ib. ib. s. 50. or six shillings and three pence, to be taxed in the bill of costs.

SEC. LX. IN all cases where witnesses are required to attend the District Court, a summons shall be issued by the clerk, expressing the day and place where they are to appear, the names of the parties to the suit, and in whose behalf summoned. Ib. ib. s. 51.

SEC. LXI. WHEN any witnesses shall be about to depart the country, or by age, sickness, or otherwise, shall be unable to attend the court, upon affidavit thereof, or on a certificate to that effect, from any justice of the peace, the clerk may, on request of either party, award a commission for taking the deposition of such witness *de bene esse*, to be read as evidence at the trial, in case the witness should be unable to attend; but the party obtaining such commission, shall give reasonable notice to the other party, of the time and place of taking the deposition, otherwise the same shall be void. Ib. ib. s. 52.

SEC. LXII. UPON affidavit that any witness resides beyond sea, or in any foreign country, or in any other of the United States, the court wherein the suit is depending, may, on request of either party, direct a commission to issue from the clerk's office, directed to such commissioners, not exceeding five, as shall be nominated and agreed upon by the parties litigant, for which purpose, the party applying for a commission in such cases, shall give the adverse party, his attorney or agent, ten days previous notice of the day of his intended application to the court: without which no commission shall issue; and if the adverse party, his attorney or agent, shall not attend for the purpose, in that case the party praying the commission may nominate the commissioners himself, any three of whom in either case, may proceed to execute the said commission: *Provided nevertheless*, That in either case, reasonable notice shall be given to the adverse party, of the time and place of taking such deposition; and the costs of giving such notice as aforesaid, as well as of taking any deposition or depositions, in any, or either of the Ib. ib. s. 53.

United States, or beyond sea, or in any foreign country, may be taxed by the court against the party, who, in their opinion, ought in justice to pay the same.

1788. c. 67. SEC. LXIII. IF any party in a suit at common law, shall make oath that he
s. 54. verily believes his claim or defence (as the case may be) or a material point thereof, depends on a single witness, the court, or the clerk in vacation, may award a commission to take the deposition of such witness *de bene esse*, although he or she be not about to depart the country, nor under any disability, the party in such case giving reasonable notice of the time and place of taking such deposition, to the adverse party.

Oct. 1783. SEC. LXIV. AND whereas great inconvenience may arise to the suitors in
ch. 26. s. 1. the several courts of this commonwealth, who are litigant with persons residing without this commonwealth, and have not agents or attorneys within the same, by the death or removal of witnesses whose depositions cannot legally be taken for want of notice to such absent persons :

Ibid. SEC. LXV. *BE it therefore enacted*, That when any commission to take the deposition of a witness, in a suit depending in any of the courts of this commonwealth, where the plaintiff or defendant in such suit doth not reside within the same, or hath not an agent or attorney within the same, to whom notice of the time and place of taking such deposition can be given, then the person obtaining such commission, having published in the Virginia Gazette, four weeks successively, the time and place when and where the witness is to be examined, and the name of the witness, together with the names of the parties to the suit in which such witness is to be examined, it shall and may be lawful for any plaintiff or defendant as aforesaid, to proceed to take any deposition authorized by the commission issuing from the court agreeable to law, where the suit depends as aforesaid ; and such deposition, when taken and returned to the clerk's office agreeable to the rules of the court from whence the commission issued, shall there be filed and allowed to be read in evidence in the same manner and under the like restrictions, as if notice had been duly given to the opposite party ; any law, usage, or custom to the contrary, notwithstanding. And the Printer may demand and receive the sum of twelve shillings for publishing such advertisement four weeks, which shall be taxed in the bill of costs if the party chargeable therewith shall prevail in the suit.

1788. ch. 67. SEC. LXVI. IF any person summoned as a witness, and attending the court,
s. 55. or the commissioners to take his or her deposition as aforesaid, shall refuse to give evidence upon oath or affirmation as the case may be, to the best of his or her knowledge, every person so refusing, shall be committed to prison by the court or commissioners, there to remain without bail or mainprize, until he or she shall give such evidence. If any person summoned to appear before commissioners or other persons, to depose or give testimony, shall fail to attend (not having a reasonable excuse) he or she shall be fined by the court from whence the subpoena issued, in like manner as witnesses failing to attend the courts. Every witness summoned to appear before the commissioners or referees, shall be entitled to the same allowance, to be certified by the commissioners or referees, and entered of record by the court, to be taxed in the bill of costs, and be privileged from arrests, in like manner as is directed and prescribed by law, for witnesses attending courts.

Ib. ib. s. 56. SEC. LXVII. NO person convicted of perjury shall be capable of being a witness in any case, nor shall any negro, mulatto, or Indian be admitted to give evidence, but against, or between, negroes, mulattoes, or Indians.

Ib. ib. s. 57. SEC. LXVIII. IF any person summoned as a witness to attend the District Court shall fail to attend accordingly, such person shall be fined five pounds, or one thousand pounds of tobacco, at the option of the payer to the use of the party for whom such witness was summoned, and the witness so failing shall farther be liable to the action of the party for all damages sustained by the non-attendance of such witness, but if sufficient cause of his or her inability to attend be shewn to the court at the time he or she ought to have appeared, or at the next succeeding court, then no fine or action shall be incurred by such failure.

SEC. LXIX. WITNESSES shall be privileged from arrests in all cases except treason, felony, and breaches of the peace, during their attendance at the District Court, coming to, and returning from thence, allowing one day for every twenty miles from their places of abode; and all such arrests shall be void. 1788. ch. 67. s. 58.

SEC. LXX. EVERY witness summoned and attending the District Court, shall be paid by the party at whose suit the summons issued, two pounds of tobacco or three pence per mile, for travelling to the places of attendance, and the same for returning, besides ferriages, and fifty pounds of tobacco or six shillings and three pence per day for his attendance; which allowance shall be entered by the clerk of course, except where disputes arise concerning the same, and then such disputes shall be determined by the court. Witnesses in civil cases, and witnesses and venire men in criminal cases, shall be sworn as to their travelling, ferriages, and attendance; for which purpose, and for affidavits justifying securities to bonds to be taken in the clerk's office, he or some of his assistants, specially empowered by the court of the district, shall administer the oaths. Ib. ib. s. 59.

SEC. LXXI. IN all judgments for plaintiff or defendant, the clerk shall allow a lawyer's fee in the bill of costs, if the party employed one, which fee, in real, personal, or mixed actions, where the title or bounds of lands shall or may come in question, shall be thirty shillings, or two hundred and forty pounds of tobacco; and in all other causes, fifteen shillings or one hundred and twenty pounds of tobacco, at the election of the party paying, except in causes transferred from the General Court, in which the fee taxed shall be the same as now taxed in the General Court: *Provided*, that this shall not be construed to alter the law, as to costs to be paid or not to be paid, by executors or administrators, which shall remain as heretofore. Ib. ib. s. 70.

SEC. LXXII. THERE shall not be allowed in the bill of costs, the charge of more than three witnesses for the proof of any one particular fact. Ib. ib. s. 71.

SEC. LXXIII. THE laws of costs shall not be interpreted as penal laws. Ib. ib. s. 72.

SEC. LXXIV. IT shall be lawful for the District Courts, on giving judgment in any case removed by appeal, writ of error, *superfedeas*, or *certiorari*, from the inferior courts, either for the appellant, appellee, plaintiff, or defendant, and in any cause originating in the District Courts where the verdict or judgment shall be given for the defendant, to award costs to the party or parties in whose favor such judgment shall be given; and on all motions it shall be lawful for the said Courts to give or refuse costs at their discretion; and in all other causes where the plaintiff shall recover debt or damages, the costs shall be governed by the laws now in force. May 1783, ch. 40.

SEC. LXXV. EXECUTIONS shall issue to any sheriff or coroner from the clerks of the District Courts, and be returnable to the first day thereof. 1788. ch. 67. s. 74.

SEC. LXXVI. A CERTIORARI to remove proceedings on a forcible entry or detainer, or for any other purpose, except the removal of a suit from an inferior court, may be granted without notice. 1789.—c. 13. s. 17.

SEC. LXXVII. AN execution, writ, or other process, appearing to be duly served in other respects, shall be deemed good, although it be not directed to any sheriff. 1788. c. 67. s. 75.

SEC. LXXVIII. IF a *distingas* issue in detinue, the Court, for good cause shewn, may direct it to be superseded, so far as it respects the specific thing; and to be executed for the alternative price or value only, if fixed in the judgment, or if the same shall afterwards be fixed by a writ of enquiry. Ib. ib. s. 76.

1788. ch. 78. SEC. LXXIX. IF a replevy bond be quashed as faulty, the sheriff taking the
s. 67. same shall be at all times liable for damages to the party injured, or his representatives.

Ibid. ib. s. 79. SEC. LXXX. NOTICE on replevy bonds, and all other legal occasions, wherein no particular mode is, or shall be prescribed, shall be good if given to the party in person, or delivered in writing to any free white person above the age of sixteen years, who shall be a member of the family of such person, and shall be informed of the purport of such notice, or left at some public place at the dwelling house, or other known place of residence of such person.

Ibid. ib. s. 80. SEC. LXXXI. FOR preventing errors in entering up the judgments of the said Courts, the proceedings of every day shall be drawn up at large by the clerk, against the next sitting of the Court, when the same shall be read in open Court, and such corrections as are necessary being made therein, they shall be signed by the presiding judge, and carefully preserved among the records.

Ibid. ib. s. 81. SEC. LXXXII. ON the last day of each Court, the proceedings therein shall be drawn up, read, corrected, signed, and preserved as aforesaid.

Ibid. ib. s. 82. SEC. LXXXIII. WHEN any cause shall be finally determined, the clerk of the District Court shall enter all the pleadings, and papers, filed as evidence therein, and the judgment thereupon, so as to make a complete record thereof; and those wherein the title of lands is determined, shall be entered in a separate book to be kept for that purpose.

Ibid. ib. s. 83. SEC. LXXXIV. On writs of *scire facias* for renewal of judgments, no judgment shall be rendered on the return of two *nihilis*, unless the defendant reside in the district, or unless he be absent from the commonwealth, and have no known attorney within the same. But such *scire facias* may be directed to the sheriff of any county in this commonwealth, wherein the defendant, or his attorney, shall reside, or be found; which being returned served, the court may proceed to judgment thereon, as if the defendant had resided in the district.

Ibid. ib. s. 84. SEC. LXXXV. IF any person or persons shall desire to remove any suit depending in any inferior court into the District Court, provided the same be originally cognizable therein, a *certiorari* for such removal may be granted by the District Court, for good cause shewn, upon motion, and ten days previous notice thereof given in writing to the adverse party; or in vacation, the party desiring such writ, shall, by petition to the judges of the General Court, set forth his or her reasons, and make oath before a magistrate, to the truth of the allegations of such petition, whereupon any judge of the said court may, under his hand, order the *certiorari* to issue, and direct the penalty of the bond to be taken previous thereto, or may reject such petition, as to him shall seem just; provided that ten days previous notice of the time and place of applying for such writ, be given in writing, to the adverse party, upon which order of the judges, the clerk shall issue the *certiorari*: *Provided*, That the party shall enter into bond with sufficient security, in the penalty so directed, with condition for satisfying all money or tobacco, and costs, which shall be recovered against the party in such suit; but if any suit so removed by writ of *certiorari*, shall be remanded to the inferior court by *procedendo*, or otherwise, such cause shall not afterwards be removed to the District Court, before judgment shall be given therein in the inferior court.

Ibid. ib. s. 85. SEC. LXXXVI. THE clerks of the District Courts shall carefully preserve all such petitions for writs of *certiorari*, with the affidavits thereto in the office: And if any person in such affidavit, shall wilfully make a false oath, and be thereof convicted, upon a prosecution commenced within twelve months after the offence committed, such offender shall suffer the pains and penalties directed for wilful and corrupt perjury.

SEC. LXXXVII. NO writ of error or *superfedeas* shall be granted in any case, until a final judgment in the county, or other inferior court. No *superfedeas* or writ of error shall be granted to any judgment in the district or county, or other inferior court, after the expiration of five years from and after the date thereof, in case of judgments hereafter to be obtained; or after the first day of January, one thousand seven hundred and ninety-three, in case of judgments already obtained: saving the rights of infants, *femes covert*, persons *non-compos*, in prison, or beyond seas, until the expiration of two years after the disability ceases. 1788. ch. 67. s. 86.

SEC. LXXXVIII. WHERE any person or persons, body politic or corporate, shall think themselves aggrieved by the judgment or sentence of any county court, or court of hustings, in any action, suit, or contest, whatsoever, where the debt or damages, or other thing recovered or claimed in such suit, exclusive of the costs, shall be of the value of thirty pounds, or three thousand pounds of tobacco, or upwards, or where the title or bounds of land shall be drawn in question, or the contest shall be concerning mills, roads, the probat of wills, or certificates for obtaining administration, such person or persons, body politic or corporate, may enter an appeal from such judgment or sentence, to the first day of the next court of the district in which such county is. Ib. ib. s. 87.

SEC. LXXXIX. THE party praying a writ of *superfedeas*, shall petition the District Court for the same, pointing out the errors he means to assign in the proceedings, and procure some attorney practising in such courts respectively, to certify, that in his opinion, there is sufficient matter of error, for reversing the judgment; whereupon such courts in their session, or any judge of such courts, respectively, in vacation, may order such writ to be issued, or reject the petition, as to them shall seem just. Ib. ib. s. 88.

SEC. XC. WRITS of error or *superfedeas*, may be granted by a District Court, or any judge of the General Court, to a judgment of a county court, where such judgment shall be of the value of ten pounds, or one thousand pounds of tobacco, or upwards. 1789. ch. 13. s. 22.

SEC. XCI. BEFORE granting any appeal, or the issuing of any writ of error or *superfedeas*, the party praying the same, shall enter into bond with sufficient security, in a penalty to be fixed by the court or judge granting the same, with condition to pay the amount of the recovery, and all costs and damages awarded, in case the judgment or sentence be affirmed. Where several appeal, or obtain a writ of error or *superfedeas*, bond and security given by any party shall be sufficient. 1788. c. 67. s. 90.

SEC. XCII. IF upon hearing any writ of error or *superfedeas*, the judgment of the inferior court be reversed in whole or in part, the District Court shall enter such judgment thereupon, as ought to have been entered in the inferior court. Ib. ib. s. 91.

SEC. XCIII. BONDS to be given in court for obtaining writs of error, *superfedeas*, *certiorari*, appeals, or any other cause, shall be valid and sufficient if given by a responsible person and security, although the party interested in the event of the suit be not an obligor. Ib. ib. s. 92.

SEC. XCIV. WHERE the defendant in any personal action appeals, or obtains such writ of error or *superfedeas*, if the judgment be affirmed, the damages, besides costs, shall be ten per centum per annum, upon the principal sum and costs, recovered in the inferior court, in satisfaction of all damages or interest. Ib. ib. s. 93.

SEC. XCV. IN real or mixed actions, the damages shall be ten pounds, or two thousand pounds of tobacco, besides costs; and where the plaintiff appeals in any action, if the judgment be affirmed, and in all controversies about mills, roads,

probat of wills, or certificates for administration, if the sentence of the inferior court be affirmed, the party appealing shall pay to the other all costs.

1789. ch. 13.
s. 35. SEC. XCVI. IF a record on an appeal, writ of error or *superfedeas*, be not delivered to the clerk of the District Court, before or during the second term of such court after the same was granted, the same shall not be received at any time thereafter, unless good cause be shewn to the court to the contrary; and after such dismissal, no writ of error or *superfedeas* shall be allowed.

1788. ch. 67.
s. 110. SEC. XCVII. IT shall be the duty of the attorney-general, to nominate and appoint proper persons to prosecute for the commonwealth, in such courts as he cannot attend himself.

1789. ch. 13.
s. 9. SEC. XCVIII. A DEED for lands now, or at any time hereafter, partly proved in the General Court, may be fully proved there, or shall be delivered by the clerk thereof to any person authorized to demand the same, with an endorsement of the proof made, and it may be fully proved and recorded in the court of the district in which the lands lie.

1788. ch. 67.
s. 132. SEC. XCIX. THE clerk of each District Court, shall, annually, before the last day of January, transmit to the sheriff of each county within the district, a list of all fines imposed by the District Court, in the year next preceding, to the use of the commonwealth, on persons residing in such county; and the sheriffs shall, respectively, proceed to collect, levy, account for, and pay the same in like manner, and subject to the same remedy and proceedings against them for default, as is or shall be directed in case of public taxes, being allowed in their accounts for insolvents, and five per centum commissions; and the said clerks shall severally transmit copies of such lists to the Auditor, to enable him to call the sheriffs to account.

SEC. C. THE said courts shall have jurisdiction, respectively, in all causes, matters, and things in the District Courts respectively depending, at the commencement of this act; and no discontinuance shall take place in any case whatsoever, civil or criminal, which shall be depending in any District Court, at the commencement of this act, by reason of the passing thereof, but the same shall be therein tried and determined, as if this act had never been made.

ALL and every act and acts, clauses and parts of acts, containing any thing within the purview of this act, shall be, and are hereby repealed.

A BILL, to reduce into one, the several Acts concerning the County and other Inferior Courts of this Commonwealth.

SECTION I. **B**E it enacted by the General Assembly, That in every county, city, corporation, and borough, within this commonwealth, in which the power of holding courts hath been heretofore or shall hereafter be vested by law, a court, to be denominated the court of such county, city, corporation, or borough, respectively, shall hereafter continue to be held by the justices of such counties, and the magistrates of such cities, corporations and boroughs respectively, at the times and places and in the manner herein after directed; any four of which justices or magistrates shall constitute a court, except in such cases where a greater number may by any particular statute be directed.

SEC. II. EVERY person appointed a justice of the peace for any county or corporation before his entering upon and executing the said office, shall publicly, in the court-house of his county or corporation, and on a court day, take the oath of fidelity to the commonwealth, as also the following oaths, to wit: "You shall swear that as a justice of the peace, in the county [or corporation] of
"in all articles in the commission to you directed, you shall do equal right to the poor and to the rich, after your cunning, wit, and power, and according to law;
"and you shall not be of council of any quarrel hanging before you; and issues, fines, and amercements that shall happen to be made, and all forfeitures which shall fall before you, you shall cause to be entered without any concealment or embezzling;
"you shall not let, for gift or other causes, but well and truly you shall do your office of a justice of the peace, as well within your county [or corporation] court, as without, and you shall not take any fee, gift, or gratuity for any thing to be done by virtue of your office; and you shall not direct or cause to be directed, any warrant by you to be made to the parties; but you shall direct them to the sheriff or other officer of the commonwealth, or other indifferent person to do execution thereof. SO HELP YOU GOD."

The oath of a justice of the County or Corporation Courts in Chancery.

"YOU shall swear that well and truly you will serve the commonwealth in the office of a justice in the county [or corporation] court of in chancery
"and that you will do equal right to all manner of people, great and small, high, and low, rich and poor, according to equity and good conscience, and the laws and usages of the commonwealth of Virginia, without favor, affection, or partiality. SO HELP YOU GOD."

AND if any person whatsoever shall presume to execute the office of a justice of the peace, or magistrate of a county or corporation court, without first qualifying himself in the manner by this act before required, he shall for every such offence forfeit and pay three hundred pounds current money, one moiety to the use of the commonwealth, and the other moiety to the informer, to be recovered by action of debt in any court of record in this commonwealth.

SEC. III. IF the business of any of the said courts cannot be determined on the court day, the justices may adjourn from day to day not exceeding six days, until all causes and controversies then depending before them shall be heard and determined, or otherwise continued in the manner herein after directed.

SEC. IV. IF it should so happen that a sufficient number of justices should not attend to form a court on the first day of any quarterly court, or any subsequent day thereof, it shall and may be lawful for any one justice to adjourn the court from day to day, for the space of three days; and if there shall not be a sufficient number convened at four o'clock in the afternoon of the fourth day, all causes, matters, and things therein depending, shall stand continued to the next succeeding court.

SEC. V. NO discontinuance shall take place in any case by reason of the justices failing to make a court or to adjourn; but in such cases all suits, process, matters and things depending, shall stand continued, and all returns and appearances shall be made to the next succeeding court in course, in the same manner as if such succeeding court had been the same court to which such process stood continued, or such returns or appearances should have been made. And all recognizances, bonds, and obligations, for appearance, and all returns, shall be of the same force and validity, for the appearance of any person or persons at such succeeding court, as if the next succeeding court had been expressly mentioned therein. And all causes depending upon the docket, and undetermined at any adjournment to the court in course, shall stand continued in the same order to such court, without any fee to the clerk for the continuance of such as shall not then be called over.

SEC. VI. THE justices of every such court, or any four of them, as aforesaid, shall and may take cognizance of, and are hereby declared to have power, autho-

ity, and jurisdiction, to hear and determine all causes whatsoever now depending, or which shall hereafter be brought in any of the said courts at the common law, or in chancery, within their respective counties and corporations, and all such other matters as by any particular statute is or shall be made cognizable therein, except such criminal causes where the judgment upon conviction shall be for the loss of life or member, and except the prosecution of causes to outlawry against any person or persons, and except also all causes of less value than twenty five shillings current money, or two hundred pounds of tobacco, other than prosecutions on any penal law of this commonwealth; and also such cases as are by law exclusively vested in any other tribunal.

1748. ch. 4. s. 5. SEC. VII. WHEN the cause of action shall not exceed twenty five shillings or two hundred pounds of tobacco, the same is hereby declared to be cognizable, and finally determinable by any one justice of the peace, who may give judgment, and thereupon award execution against the goods and chattels of the debtor, or party against whom such judgment shall be given, which shall be executed and returned, by the sheriff or constable to whom directed, in the same manner as other writs of *fiery facias* are to be executed and returned, but no execution shall be by him granted against the body of the defendant.

SEC. VIII. THE said courts shall be held at the several respective places at present assigned by law for that purpose, or at such place or places as shall be hereafter lawfully appointed, on the several days for holding courts heretofore in such counties or corporations respectively appointed by law, in the months of March, May, August, and November in every year, except as herein after excepted, for the trial of all presentments, criminal prosecutions, suits at common law, and in chancery, where the sum exceeds five pounds or eight hundred pounds of tobacco, now depending or which hereafter shall be brought in any of the said courts, and shall continue for the space of six days, unless the business be sooner determined; which sessions of the said courts shall be denominated the quarterly sessions of such courts respectively.

1788. ch. 40. SEC. IX. *PROVIDED* always, that in the counties of Montgomery, Washington, Russell, and Wythe, such court shall be held on the days now by law respectively appointed for holding courts in the months of April, June, September and November; and in the counties of Henry and Cumberland, in the months of February, April, July, and October; and in the counties of Norfolk, Princess-Anne, Northampton, Nansemond, Stafford, Spottsylvania, Fairfax, Loudoun, 1789. ch. 51. Prince-William, Berkeley, and Ohio, in the months of March, June, August, 1790. ch. 51. and November; and in the county of Pendleton, in the months of April, June, Ibid. ch. 55. and December; and in the county of Hampshire, in the months of March, May, September and November, in every year, instead of the months first above mentioned; and in the counties of King-George and Frederick, in the month of June annually, instead of the month of May. 1788. ch. 22.

1785. ch. 8. s. 4. SEC. X. THE sheriff of each county, and the serjeants of the cities of Williamsburg, Richmond, and borough of Norfolk, respectively, shall, before every court of quarter session, summon twenty four freeholders of his county or corporation, qualified as the law directs, for grand jurors, to appear at the next succeeding court of quarter sessions; which twenty four men, or any sixteen of them, shall be a grand jury, and shall enquire of and present all crimes, misdemeanors, or breach of penal laws, agreeably to an act of Assembly, intituled, "An act concerning grand juries, petit juries, and venire men," whatsoever, which shall be committed within their county or corporation, cognizable before the county or corporation courts.

1788. ch. 10. SEC. XI. A MONTHLY session of the said courts shall be held in like manner, on the days hereafter by law appointed for holding courts in such counties and corporations respectively, in every month in which there shall not be a quarterly session, for the transaction of all business cognizable by the said courts, except such as has been herein before assigned to the court of quarter sessions. *Provided nevertheless,* That injunctions in chancery may be granted or dissolved, judgments on attachments against absconding debtors, where the property attached shall not be reple-

vied, entered up, and petitions for small debts, or for the trover and conversion, or detention of any thing not exceeding five pounds, or eight hundred pounds of tobacco; as also all matters touching the breach of the peace and good behaviour, motions on replevy bonds, and against sheriffs and other public officers and defaulters, may be heard and determined, deeds and wills proved, and certificates of probat and administration granted, either at a monthly or quarterly session of the said courts.

SEC. XII. ALL original process to bring any person or persons to answer in any action or suit, indictment or information in the said courts, and all subsequent process thereon, all process in chancery awarded by the said court, and all other writs of what nature soever, shall be issued and bear teste by the clerk of such courts respectively, and made returnable to the first day of the next succeeding quarterly term; except subpoenas of injunction, attachments, petitions, and subpoenas for witnesses, which shall be returnable to the next succeeding court, be the same monthly or quarterly, as the case may require.

SEC. XIII. SPECIAL bail may be taken in court at the quarterly sessions, 1787, ch. 10: or at the monthly courts.

SEC. XIV. THE county and corporation courts, at their quarterly sessions, shall have similar jurisdiction with the High Court of Chancery, and shall proceed in the same manner against the estate and effects of persons residing out of this state, or absconding to avoid being served with the process of the said court; and may hear and determine all caveats against grants for lands lying within the jurisdiction of the said courts, respectively.

SEC. XV. ALL writs of execution upon judgments obtained in the quarterly *Ibid.—ib.* or monthly courts, and all executions, and other process to enforce any decree in chancery, obtained in either of the said courts, may be made returnable to the first day of a quarterly or monthly court, provided there be not less than fifteen, nor more than ninety days between the teste and return of such execution or process.

SEC. XVI. FROM time to time, forever hereafter, the court of every county and corporation within this commonwealth shall cause to be erected, and kept in repair (or where the same shall be already built, shall maintain and keep in good repair) within each respective county and corporation, and at the charge of such county or corporation, one good and convenient courthouse, of stone, brick, or timber, and one common gaol and county prison, well secured with iron bars, bolts, and locks, and also one pillory, whipping post, and stocks; and where land shall not be already provided and appropriated for that purpose, such court may purchase two acres whereon to erect the said public buildings for the use of their county or corporation, and for no other use whatsoever. And to every courthouse already built and established, two acres of the land built upon and adjacent thereto, not having any house, orchard, or other immediate convenience thereon, shall be and remain appropriated to such courthouse, and the fee simple thereof is hereby declared to be in the court of the same county, and their successors, to the use of such county, as aforesaid, but where a courthouse is already built in any city or town, the land now laid off for the same, and the other public buildings shall be judged and held to be sufficient. And if the justices of any county or corporation court shall at any time hereafter fail to keep and maintain a good and sufficient prison, pillory, and stocks, every member of the court so failing shall forfeit and pay five hundred pounds of tobacco, one moiety to the commonwealth, the other moiety to the informer; to be recovered with costs, by action of debt or information in any court of record of this commonwealth. And moreover the court so failing shall be liable to the action of the sheriff from time to time for all damages recovered against him upon any escape for want of a sufficient prison, and such sheriff, or his executors, or administrators, shall and may sue for the same, by action of debt or information, brought in the General Court against the justices so failing, or the survivors of them, and upon recovery in such suit, the judges of the said court are hereby empowered and required to proportion how much every particular justice of the court so failing, who shall be then living, and the executors or administrators of such as shall be deceased, shall pay respectively, and to enter up judgment accordingly, whereupon one or more executions shall and may be issued.

SEC. XVII. THE justices of every county and corporation, shall be, and they are hereby empowered and required, to mark and lay out the bounds and rules of their respective county and corporation prisons, not exceeding ten acres of land, adjoining to such prison, which marks and bounds shall be recorded, and renewed from time to time, as occasion shall require, and every prisoner not committed for treason or felony, giving good security to keep within the said rules, shall have liberty to walk therein, out of the prison for the preservation of his or her health, and keeping continually within the said bounds shall be adjudged in law a true prisoner. And if the court of any county or corporation shall at any time think fit, they are hereby authorized and empowered at the charge of their county or corporation, to cause a ducking stool to be built in such convenient place as they shall direct.

1748. ch. 4. SEC. XVIII. ALL process issuing from such courts, to bring any person to answer in any suit in such courts, shall be executed three days at least before the day therein mentioned for the return thereof; and if any process shall be delivered to the sheriff or officer so late that he cannot execute the same three days before the return day, such process shall not be executed, but the officer shall return the truth of the case. And if any original process be taken out within three days before the next court day, such process shall be returnable to the next court after the said three days, and not otherwise; and all process issued, or returnable, in other manner than is herein before directed, shall be null and void.

Ib. ib. s. 14. SEC. XIX. *PROVIDED* nevertheless, that any justice or justices of peace by his or their warrant, may cause any traitor, felon, pirate, rioter, breaker of the peace, or other criminal offender, to be apprehended and brought before the same, or some other justice or justices, or before the next court, although there be not three days between the execution of such warrant and the return thereof.

1788. ch. 67. SEC. XX. IN all actions or suits which may be commenced against the Governor of this commonwealth, any member of the Privy Council, any of the judges of the Superior Courts, or the sheriff of any county during his continuance in office, instead of the ordinary process, a summons shall issue to the sheriff, or other proper officer, reciting the cause of action, and summoning such defendant to appear and answer the same on the proper return day in the next court; and if such defendant, being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the court shall proceed against such defendant in the same manner as if he had been taken upon a *capias ad respondendum*. *PROVIDED* always, that after judgment and the return of a *feri facias* by the sheriff of that county in which the defendant in any such case resides, that no effects or not sufficient are to be found in his bailiwick to satisfy the said judgment, a *capias ad satisfaciendum* may be issued as in other cases.

1748. ch. 4. SEC. XXI. UPON executing any process whereupon bail shall be requirable, the sheriff shall return therewith the names of the bail by him taken; and if he shall not return bail, or the bail returned shall be judged insufficient by the court, or the defendant shall fail to appear, or to give special bail when ruled thereto by the court, such sheriff or bail shall be subject to the same judgment and recovery, and shall have the same liberty of defence, relief, and remedy, as in like cases is by law provided in suits depending in the District Court.

Ib. ib. s. 17. SEC. XXII. AND upon appearance of the defendant in any personal action, where the plaintiff shall move that the defendant may be held to special bail, the court may, if they see cause, rule him to give bail accordingly, or commit him in custody of the sheriff till such bail be given; and the person and persons becoming special bail shall be liable to the judgment and recovery against such defendant, unless he render his body in execution in discharge of his bail.

1787 ch. 10, SEC. XXIII. NO bail shall be demanded on a writ of *capias ad respondendum*, which shall be issued against a resident of one county in any other, until a *non est inventus* has been returned in the county in which the defendant resides, upon a *capias* issued in the same suit against such defendant; and every writ

issued contrary thereto, without an indorsement of " No bail required," shall be voidable at any time before issue joined, or judgment by default, *nil dicit*, or *non sum informatus* thereon, but not afterwards: *Provided*, That no such writ issuing from the county in which the cause of action accrued, shall be voidable by reason of bail being required thereon.

SEC. XXIV. ANY justice of the peace, when the courts are not sitting, may take recognizance of special bail in any action therein depending, which shall be taken *de bene esse*, and returned by the justice taking the same, to the clerk of the court before the next succeeding quarterly court, to be filed with the papers in such action. 1787. ch. 10. s. 2.

SEC. XXV. IF the plaintiff, or his attorney, shall except to the sufficiency of the bail so taken by a justice out of court, notice of such intended exception shall be given to the defendant, or his attorney, at least five days previous to the day at which such exception shall be taken; and if such bail shall be adjudged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall be had as if no such bail had been taken. Ib. ib.

SEC. XXVI. THE same proceedings shall be had against the common bail and sheriff, in any suit, or either of them, their executors or administrators, and they, or either of them, may have the same remedy against the defendant, or his executors or administrators in the county courts, at their quarterly sessions, as is directed to be had in any District Court in such cases. Ib. ib.

SEC. XXVII. ALL imparlances to be taken, and pleadings to be filed, both in common law and in chancery, until an issue is joined, or interlocutory decree or judgment obtained, shall be done at rules to be held monthly in the clerk's office, on such days as the courts, at their respective quarter sessions, shall appoint; which rules shall be distinctly entered in a book to be kept for that purpose, and the clerk shall be allowed the same fees for entering such rules, as if the same had been made in court. Ib. ib.

SEC. XXVIII. ALL rules to declare, plead, reply, rejoin, and for other proceedings, shall be given from month to month, and shall be made and entered with the clerk of the court in the same manner as rules are made and entered with the clerks of the District Courts in suits depending in them. Ib. ib.

SEC. XXIX. *PROVIDED nevertheless*, That the court may, at their quarterly session next after any of the said rules and proceedings have been had in the clerk's office, for good cause to them shewn, set aside any of the said rules and proceedings, and make such order concerning the same as to them may appear just and right. Ib. ib.

SEC. XXX. WHERE any final judgment shall be entered up in the office, against any defendant or defendants, and their securities, or against any defendant or defendants, and sheriff, by default, execution may issue thereon after the next succeeding quarterly court, unless the same be set aside during such court, in like manner as office-judgments in the District Courts may be set aside; and all office-judgments so set aside, shall be immediately put at the end of the issue-docket, and tried the same court in turn with the other issues, unless the plaintiff shall wave his right of trial until the next quarterly term. Ib. ib.

SEC. XXXI. THE clerk shall proportion the causes upon the docket from the first day of the court to the sixth, both inclusive, if in his opinion, so many days will be expended in trying the causes ready for trial, and issue subpoenas for witnesses to attend the days to which the causes stand for trial. Ib. ib.

1787. ch. 10. SEC. XXXII. HE shall docket the causes in order as they are put to issue, and no cause shall be removed from its place on the docket unless where the plaintiff at the calling the same be unprepared for trial, in which case, and no other, shall the cause be put at the end of the docket.

1748. ch. 4. SEC. XXXIII. AND for the better ascertaining what process may be sued out, where the sheriff returns that the defendant is not to be found in his bailiwick ; *It is hereby further enacted*, That where any sheriff shall make such return, the plaintiff or plaintiffs in any civil action shall and may sue out an attachment against the estate of such defendant, returnable as herein before is directed for the returns of original and other subsequent process, thereupon to force an appearance, or an *alias* or *pluries capias*, at the election of the plaintiff or plaintiffs ; and if the sheriff shall return any goods by him attached, the plaintiff shall file his declaration, and be entitled to a judgment for his whole debt, and the goods so attached shall remain in custody of the sheriff till such judgment obtained, and then be sold and disposed of in the same manner as goods taken in execution upon a writ of *fiere facias* ; and if the judgment shall not be satisfied by the goods attached, the plaintiff may have an execution for the residue.

Ib. ib. SEC. XXXIV. *PROVIDED always*, That all goods so attached shall and may be replevied by the defendant's giving bond and security to the sheriff or other officer attaching the same, in like manner as by law is directed on the execution of *mesne process*, or by the defendant's appearance, and putting in good bail, if ruled by the court to give special bail.

Ib. ch. 6. s. 5. SEC. XXXV. BUT no sheriff shall return upon any writ to him directed that the defendant is not found in his bailiwick, unless such sheriff or his officer shall have actually been at the dwelling house or place of abode of such defendant, and not finding him shall have there left an attested copy of the same writ or process ; and where any defendant shall be a known inhabitant of another county, and not of the county of that sheriff to whom the process shall be directed, such sheriff shall return the truth of the case, but not that the person is not found in his county, and thereupon such process issued from any county court clerk's office, as to such defendant, shall abate and be dismissed.

Ib. ch. 4. s. 19 SEC. XXXVI. THE clerk of the court shall carefully preserve the declarations, pleas, evidences, and all other papers, relating to any cause in court, and they shall be all filed together in the office.

Ib. ib. SEC. XXXVII. IN all cases, where the title or bounds of any estate in land is determined, the pleadings shall be all in writing, and shall be entered at large, with the judgment thereupon, in particular books kept for that purpose only.

Ib. ib. SEC. XXXVIII. AND for preventing errors in entering the judgments of the court, the justices, before every adjournment, shall cause the minutes of their proceedings to be publicly read by the clerk, and corrected where necessary, and then the same shall be signed by the first justice in commission then sitting ; which minutes so signed, shall be taken in a book, and carefully preserved among the records ; and no proceedings or judgments of any court shall be of force, or valid, until the same be so read and signed.

Ib. ib. s. 20. SEC. XXXIX. AND for prevention of delay and vexation, by dilatory pleas, *It is hereby further enacted and declared*, That in all personal actions, where the declaration shall plainly set forth sufficient matter of substance for the court to proceed upon the merits of the cause, the suit shall not abate for want of form ; and that where a plea in abatement shall be pleaded in any action, and upon argument the same shall be adjudged insufficient, the plaintiff or plaintiffs in such action shall recover against the defendant or defendants full costs, to the time of overruling such plea, including the costs of that court, a lawyer's fee only excepted.

SEC. XL. ANY debt, or penalty, amounting to more than twenty-five shillings or two hundred pounds of tobacco, and not exceeding one hundred shillings or eight hundred pounds of tobacco, may be demanded by petition to the court of a county, city, or borough. 1786, ch. 62.

SEC. XLI. THE clerk of the court shall draw the petition, stating therein how the debt became due, or by breach of what act of assembly the penalty was incurred, and shall issue a summons directed to the sheriff, or other proper officer, commanding him to summon the defendant to appear and answer the petition; and the defendant being summoned ten days at least before the return day, and being at the same time served with a copy of the petition, together with a copy of the account, which shall be filed, when the debt shall have arisen by account, the court shall and may hear and determine the matter in dispute in a summary way, and give such judgment as shall appear to be just. Ibid.—ib.

SEC. XLII. ANY person may, by petition, to be served and tried in like manner, demand and recover goods detained, or the value of them, and damages for the detention, or damages for goods found by the defendant, and converted to his use, where the goods, with the damages, are not of greater value than one hundred shillings, or eight hundred pounds of tobacco. Ib. ib.

SEC. XLIII. WHOSOEVER shall bring any other action than a petition, if it appear, either by his own shewing in the declaration, or by the verdict of a jury, that he might have brought a petition by this act, shall be nonsuit. Ib. ib.

SEC. XLIV. AND be it further enacted, That in all suits in the county courts in chancery, the following rules and methods shall be put in practice and observed, to wit: 1748. ch. 4. s. 25.

SEC. XLV. THE complainant shall file his bill on the first rule day after the return of the subpoena executed, or upon the first appearance of the defendant, upon pain of having the same dismissed by the defendant; and if he shall fail to file the same within three months from the time of such return, the suit shall stand *ipso facto* dismissed with costs. 1748. ch. 4. s. 25. & 1787. ch. 9. s. 2.

SEC. XLVI. UPON the complainant's dismissing his bill, or the defendant's dismissing the same for want of prosecution, the defendant shall recover his costs. 1748. ch. 4. s. 25.

SEC. XLVII. THE complainant may amend his bill before the defendant appears, or in a small matter afterwards, without paying costs; but if he amend after appearance, and in a material point, whereby the defendant shall be put to any extraordinary costs, such costs shall be paid before the complainant shall be at liberty to amend his bill. Ib. ib.

SEC. XLVIII. IF any defendant shall not appear upon attachment returned executed, or being brought into court upon any such process, shall obstinately refuse to answer the complainant's bill, such bill shall be taken *pro confesso*, and the matter thereof decreed accordingly. Ib. ib.

SEC. XLIX. THE defendant shall file his answer at the next rules after his appearance, and bill filed, and if no answer be then put in, an attachment may be awarded, returnable to the next court; and if no answer be put in upon return of the attachment executed, the complainant's bill shall be taken *pro confesso*, and the matter thereof decreed. Ib. ib.

1748. ch. 4.
s. 25. SEC. L. AND if the attachment be returned not executed, an attachment with proclamation shall be issued; and if upon the return thereof no answer shall be put in, the complainant's bill shall be taken *pro confesso*, and the matter decreed as aforesaid.

Ib. ib. SEC. LI. NO process of contempt shall issue without oath made of the service of the subpoena, unless the same be returned served by a sworn officer.

1787. ch. 9.
s. 2. SEC. LII. IF the defendant does not file his answer within three months after the plaintiff shall have filed his bill, having also been served with the subpoena at least three months before the said time for filing his answer, the plaintiff may proceed to take his bill for confessed, and proceed in the same manner as in the case of an attachment returned executed, or he may have a general commission to take depositions, or he may move the court to bring in the defendant to answer interrogatories, at his election, and proceed on to hearing in the two last cases, as if the answer had been filed, and the cause was at issue: *Provided*, that the court, for good cause shewn, may allow the answer to be filed, and grant a further day for such hearing.

1748 ch. 4,
s. 25. SEC. LIII. EVERY defendant shall be at liberty to swear to his answer, before any justice of the peace.

Ib. ib. SEC. LIV. WHEN any cross bill shall be preferred, the defendant or defendant's in the first bill shall answer thereto, before the defendant or defendants in the second bill shall be compellable to put in his or their answer to such cross bill.

Ib. ib. SEC. LV. THE complainant shall reply, or file exceptions, at the next rules after the defendants putting in his answer; and if the complainant shall not then reply, nor file exceptions, his bill shall be dismissed with costs.

Ib. ib. SEC. LVI. WHEN the complainant files exceptions against the answer of any defendant or defendants, as insufficient, if the defendant puts in a sufficient answer at the next rules, the same shall be received, without costs; but if the defendant's attorney insists on the sufficiency of the answer put in, and neglects or refuses to put in a sufficient answer, or shall put in another insufficient answer, the plaintiff may set down his exceptions, to be argued the next court; and after exceptions to filed, or any second insufficient answer put in, no further or other answer shall be received, but upon payment of costs.

Ib. ib. SEC. LVII. AND if upon argument the complainant's exceptions shall be over ruled, or the defendant's answer adjudged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, as the case shall be, such costs as shall be allowed by the court.

Ib. ib. SEC. LVIII. UPON every second or third answer adjudged insufficient, costs shall be doubled.

Ib. ib. SEC. LIX. IF any defendant shall put in a fourth insufficient answer, which shall be so adjudged, such defendant shall be examined upon interrogatories, and committed, till he shall perfectly answer those interrogatories, and pay costs.

Ib. ib. SEC. LX. IF the defendant, after process of contempt, put in an insufficient answer, which shall be so adjudged, the complainant shall not be obliged to take out a new subpoena, but may go on to the attachment with proclamation, as if no answer had been put in.

SEC. LXI. WHERE the complainant conceives sufficient matter to be confessed by the defendant's answer, he may set down the cause for, and proceed to hearing. 1748. ch. 4. s. 25.

SEC. LXII. AFTER answer filed, and no plea in abatement to the jurisdiction of the court, no exception for want of jurisdiction shall ever afterwards be made, nor shall the High Court of Chancery, or any other court, ever thereafter, delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting lands lying without the jurisdiction of such court, and also of infants and *femes covert*. 1787. ch. 9. s. 2.

SEC. LXIII. NO defendant shall be admitted to put in a rejoinder, unless it be filed at the next rules after replication put in, but the complainant may proceed to the examination of witnesses. 1748. ch. 4. s. 25.

SEC. LXIV. AFTER an attachment with proclamation returned, no plea or demurrer shall be received, unless by order of court, upon motion. Ib. ib.

SEC. LXV. IF the complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may set it down to be argued; or if he thinks the plea good, but not true, he may take issue upon it, and proceed to proofs; and if such plea shall be adjudged false, the complainant shall have the same advantage as if the same plea were found false by verdict at the common law. Ib. ib.

SEC. LXVI. IF a plea be pleaded, or demurrer put in, and over-ruled, no other plea or demurrer shall thereafter be received, but the defendant shall answer the allegations of the bill. Ib. ib.

SEC. LXVII. THE complainant at the next rules after a plea or demurrer put in, may cause the same to be set down to be argued; but if the complainant shall not proceed to have the same so set down, before the second court after plea or demurrer put in, the bill may be dismissed of course, with costs. Ib. ib.

SEC. LXVIII. UPON a plea or demurrer argued and over-ruled, costs shall be paid as where an answer shall be adjudged insufficient, and the defendant shall answer at the next rules; but if adjudged good, the defendant shall have his costs. Ib. ib.

SEC. LXIX. IF any defendant shall obstinately insist on a demurrer, and refuse to answer, where the court shall be of opinion that sufficient matter is alleged in the bill to oblige him to answer, and for the court to proceed upon, the bill shall be taken *pro confesso*, and the matter thereof decreed accordingly. Ib. ib.

SEC. LXX. COMMISSIONS to examine witnesses may be awarded at the rules after replication filed, the party taking out such commission giving the adverse party ten days notice of the time and place of executing the same. Ib. ib.

SEC. LXXI. WHENEVER a general commission shall issue for taking depositions upon answer and replication, six months from the time of the replication shall be allowed the parties for taking their depositions; and either party at the expiration of the said six months may set the same for hearing; nor shall any deposition taken after that time be read as evidence on the hearing, except the same was taken by consent of the parties, by special order of court, or out of the state. 1787. ch. 9. s. 2.

1748. ch. 4. SEC. LXXII. AFTER any bill filed, and before the defendant puts in his answer, upon oath made that any of the complainant's witnesses are aged and infirm, or going out of this commonwealth, whereby the complainant thinks he is in danger of losing the benefit of their testimony, the clerk may issue a *dedimus* to take examination of such witnesses *de bene esse*, giving the defendant reasonable notice, so as to be valid if the complainant has not an opportunity to take their examination in the ordinary course of proceedings.

Ib. s. 26. SEC. LXXIII. AND for better discovering of the truth in any matter whatsoever, depending before a county or corporation court, *Be it further enacted*, That the clerk of every county or corporation shall and may, and is hereby authorized and empowered, upon request of either party, to issue one or more summons or summonses for any person or persons to attend as witnesses in any cause or matter depending before the court, or order of references, or upon any survey of land which shall be by the court, ordered to be made, expressing in every summons the time and place where the witnesses are to appear, the names of the parties to the suit or cause wherein they are to give evidence, and at whose request they are summoned; and if any witness shall be an inhabitant of another county, the clerk shall issue a summons, which may be directed to the sheriff, or any coroner of that county where such witness or witnesses live or usually reside, which shall be by such officer executed and returned to the office whence the same issued.

Ib. ib. SEC. LXXIV. AND every person summoned to appear at any county or corporation court, or order of reference, or upon any survey of land, as a witness, and being an inhabitant of the same county, shall be paid by the person or persons at whose suit the summons issued, twenty-five pounds of tobacco for every day's attendance upon such summons; and every person residing in, and summoned out of, another county, shall have the said allowance of twenty-five pounds of tobacco per day for attendance, and be paid two pounds of tobacco, or three-pence per mile for travelling to, and the same for returning from the court or other place where his attendance shall, by subpoena duly executed, be required, and also his ferriages, to be paid by the party summoning him or her; which said several allowances for attendance, shall be ordered by the court, upon motion, and a copy thereof issued by the clerk, at any time, upon request. And if any person summoned as aforesaid, shall fail to attend accordingly, he or she so failing, shall be fined by the court to the party at whose suit such summons issued, three hundred and fifty pounds of tobacco, and shall also be liable to the action of such party, at the common law, for his or her damages; but if the person so failing shall at the court to which the summons shall be returnable, or at the next succeeding court, shew sufficient cause of his or her inability to attend at the time he or she ought to have appeared, then no fine or forfeiture shall be incurred by such failure.

1787. ch. 10. SEC. LXXV. WHEN any witness resides out of this commonwealth, and within any other of the United States, or shall be about to depart the same, or by age, sickness, or otherwise, shall be unable to attend in person, upon affidavit thereof, the court when sitting, or any justice thereof in vacation, may on request of either party, direct a commission to be issued by the clerk of the court, to two or more justices of the peace for taking the deposition of such witness, *de bene esse*, but the party obtaining such commission shall give reasonable notice to the adverse party of the time and place of taking such deposition, otherwise the same shall be void.

Ib. ib. SEC. LXXVI. IF any party in any suit at common law or in chancery, shall make oath that he verily believes his claim or defence, or a material point thereof, depends on a single witness, the court, or any justice thereof, may direct a commission to issue from the clerk of the court, to two or more justices of the peace, to take the deposition of such witness, *de bene esse*, although he or she be not about to depart the commonwealth, nor under any disability, the party in such case giving reasonable notice of the time and place of taking the same, to the adverse party.

Ib. ib. SEC. LXXVII. WHEN any witness resides beyond sea, or in any foreign country, upon affidavit thereof, the court when sitting, may, on request of either

party, direct a commission to issue from the clerk's office, directed to such commissioners, not exceeding five, as shall be nominated and agreed upon by the parties litigant; for which purpose, the party applying for a commission in such cases, shall give the adverse party, his attorney or agent, ten days previous notice of the day of his intended application to the court, without which no such commission shall issue; and if the adverse party, his attorney or agent, shall not attend for the purpose, in that case the party praying the commission, may nominate the commissioners himself, any three of whom, in either case, may proceed to execute the said commission.

SEC. LXXVIII. *PROVIDED nevertheless*, That in either case, reasonable notice shall be given to the adverse party, of the time and place of taking such deposition, and the costs of giving any such notice as aforesaid, as well as of taking any deposition or depositions, in any or either of the United States, or beyond sea, may be taxed by the court against the party, who, in their opinion, ought in justice to pay the same. 1787. ch. 10. s. 2.

SEC. LXXIX. AND whereas great inconvenience may arise to the suitors in the several courts of this commonwealth, who are litigant with persons residing without this commonwealth, and have not agents or attorneys within the same, by the death or removal of witnesses, whose depositions cannot legally be taken for want of notice to such absent persons: Oa. 1783. ch. 26. s. 1.

SEC. LXXX. *BE it enacted*, That when any commission shall be obtained to take the deposition of a witness, in a suit depending in any of the courts of this commonwealth, where the plaintiff or defendant in such suit doth not reside within the same, or hath not an agent or attorney within the same, to whom notice of the time and place of taking such deposition can be given; then the person obtaining such commission, having published in the Virginia Gazette, four weeks successively, the time and place when and where the witness is to be examined, and the name of the witness, together with the names of the parties to the suit in which such witness is to be examined, it shall and may be lawful for any plaintiff or defendant as aforesaid, to proceed to take any deposition authorized by the commission issuing from the court agreeable to law, where the suit depends as aforesaid; and such deposition when taken and returned to the clerk's office agreeable to the rules of the court from whence the commission issued, shall there be filed and allowed to be read in evidence, in the same manner and under the like restrictions, as if notice had been duly given to the opposite party; any law, usage, or custom to the contrary, notwithstanding. And the printer may demand and receive the sum of twelve shillings for publishing such advertisement four weeks; which shall be taxed in the bill of costs if the party chargeable therewith shall prevail in the suit.

SEC. LXXXI. IF any person attending before any county court referees, or commissioners, appointed to take his or her deposition within this commonwealth, shall refuse to give evidence on oath or affirmation, as the case may be to the best of his or her knowledge, any person so refusing shall be committed to prison, either by the court referees, or commissioners, there to remain without bail or mainprize, until he or she shall give such evidence. 1787. ch. 16. s. 2.

SEC. LXXXII. WITNESSES shall be privileged from arrests in civil cases during their attendance at any court, order of survey or of reference, and in coming to and returning from the place where their attendance shall, by a subpoena first duly executed by a sworn officer, or by some other indifferent person, who shall have made oath to the due execution thereof, be required, allowing one day for every twenty miles from their places of abode; and all such arrests shall be void.

SEC. LXXXIII. AND whereas, an abuse of those privileges which are granted for the furtherance of justice, ought to be carefully guarded against: 1786. ch. 14. s. 3.

1786. ch. 14.
s. 3.

SEC. LXXXIV. *BE it further enacted*, That no person whatsoever attending any of the courts in this commonwealth, or upon any reference or survey, by order of any such court, in virtue of any subpoena, shall be privileged from an arrest by original or other process, unless such person shall be actually a witness in the matter in such subpoena expressed, nor unless the said subpoena shall have been first duly executed by a sworn officer, or by some other indifferent person who shall have made oath to the due execution thereof.

SEC. LXXXV. THE right of appeal from the county and corporation courts, to the High court of Chancery and to the District Courts, shall be exercised in the same manner as heretofore.

1748, ch. 4,
s. 27.

SEC. LXXXVI. IF the plaintiff or demandant appeals, then the special bail given by the defendant or tenant in the county or inferior court shall all stand bound to answer the judgment of the District Court, and such appellant shall give bond, with security in the sum of twenty pounds current money that he will prosecute his appeal so with effect; and if he do not appear and prosecute the same, his bond shall be forfeited to the defendant or appellee.

1b. s. 28.

SEC. LXXXVII. NO writ or writs of *certiorari* shall be received or allowed by the justices of any county court or other inferior court, or to whom any such writ or writs shall be directed and delivered, after issue or demurrer joined, in the cause or causes depending in such court or courts, and intended to be removed by such writ or writs, but they shall and may proceed in the said cause or causes as though no such writ had been sued forth or delivered to them or any of them; and if any cause be removed or stayed by such writ, and afterwards the same cause shall be remanded, or sent back again, by any writ of *procedendo*, or other writ whatsoever, such cause shall never afterwards be removed, or stayed before judgment, by any other writ or writs whatsoever, to be sued forth from either of the District Courts, or from the High Court of Chancery.

1b. ch. 5 s. 9.

SEC. LXXXVIII. BEFORE any injunction in chancery shall be granted to stay proceedings at law, in any action, suit, or judgment whatsoever, in any county or corporation court, if the court shall not be otherwise satisfied with the matter of equity, the party praying such injunction shall make oath before the court, or before some magistrate, of the truth of the allegations of his injunction-bill; which affidavit shall be certified at the foot of the bill, and he, she or they, shall moreover enter into bond, with one or more sufficient securities, in the clerk's office, for satisfying and paying all such sums of money and tobacco, and costs, which shall be then due, or become due, to the plaintiff or plaintiffs, in the action, suit, or judgment, so to be stayed, and also for the payment of such costs as shall be awarded against him, her, or them, in case the injunction shall be dissolved; and the clerk shall endorse on the subpoena that the bond is filed.

SEC. LXXXIX. THE proceedings of the said courts in common law cases, shall, as nearly as may be, conform to the practice in the District Courts. And in chancery cases, the same shall conform to the practice of the High Court of Chancery in like cases, except in such cases as are or shall be otherwise particularly directed by any act of the General Assembly.

SEC. XC. NOTHING in this act before contained shall be construed to enlarge, alter, or abridge any of the powers, jurisdictions or constitutions of any court of any city, town, corporation, or borough within this commonwealth, but the same shall remain as if this act had not been made; any thing herein to the contrary, or seeming to the contrary, notwithstanding.

SEC. XCI. *PROVIDED always*, That the respective corporation courts of Hustings of any city, town, or borough, shall have jurisdiction only in suits or controversies instituted between the respective inhabitants or citizens of such city,

town, or borough, and between one or more of the inhabitants of such city, town, or borough, and any person or persons not an inhabitant or inhabitants of this commonwealth, and in either case only where the contract hath been made, or the cause of action hath accrued, within such city, town, or borough; and in all such suits and controversies, their respective jurisdictions shall not be limited to any particular sum, but shall be co-extensive with the jurisdiction of the county courts.

SEC. XCII. NOTHING in this act before contained shall be construed to prejudice or in any manner affect the charters of the city of Williamsburg and borough of Norfolk, or either of them.

SEC. XCIII. NO person being a member of any corporation court, court of hustings, or common-council man of any city, town, or borough whatsoever, within this commonwealth, except common-council-men of the city of Williamsburg or borough of Norfolk, shall while a member of such corporation court, court of hustings, or common-council, be capable of acting as a justice of any county court.

SEC. XCIV. AND whereas several of the county court clerks in this commonwealth have neglected to record deeds, wills, and other matters of consequence: *BE it enacted*, That the justices of the several county courts shall, annually, appoint two or more fit persons of their number to inspect the clerk's office of their county, and to report to the next court the condition in which they find the papers and records. 1745. ch. 1. s. 14.

SEC. XCV. THE clerks of the several county and corporation courts shall, annually, on or before the first day of July, transmit to the auditor a list of all fines imposed by their respective courts within the next preceding year; and if no fine shall have been imposed within such period the clerk shall certify accordingly. Every clerk failing to perform the aforesaid duty, shall forfeit and pay fifty pounds, to be recovered by the auditor on motion to the General Court, and applied to the use of the commonwealth; provided ten days previous notice be given in writing of every such motion. 1787. ch. 40. s. 15.

All and every act, clause, and parts of acts, within the purview of this act, shall be, and the same are, hereby repealed.

*A BILL reducing into one act, the several Acts concerning the Adjournment and Places of Session of certain Courts, in certain Cases.**

SECTION I. *BE it enacted by the General Assembly*, That so often as it shall appear necessary, it shall be lawful for the Governor, with the advice of the Council of State, by a proclamation, bearing date one month at least before the first day of meeting, and dispersed throughout the several counties (that of Illinois excepted) to cause the Court of Appeals, the High Court of Chancery, and the General Court, to meet at any convenient place within the commonwealth, there to hold their respective sessions immediately succeeding each proclamation. If it shall so happen that the cause of adjournment shall occur within the space of a month next preceding the day of meeting, it shall be lawful for the Governor, with the advice of the Council of State, by a proclamation dispersed as aforesaid, to postpone the time of meeting beyond the day, taking care that one month at least shall intervene between the date thereof and such new day, and that the new day does not fall within the month next preceding a stated term. May, 1781: ch. 1.

* *This Act does not extend to the District Courts, or Corporation Courts.*

SEC. II. IF after a session begun, a majority of the judges of the aforesaid courts who are present, shall be of opinion, and so record, that they cannot sit with safety at the place fixed by law, or the proclamation aforesaid, it shall be lawful for them to adjourn to the succeeding term; and thereupon all business shall stand continued over.

SEC. III. COPIES of any proclamation of adjournment shall be sent, under signature of the Governor and seal of the commonwealth, to each of the judges aforesaid, whose court may be so adjourned.

SEC. IV. THERE shall be no discontinuance in any proceeding whatsoever, if the courts aforesaid, or either of them, should not be holden in their usual terms.

SEC. V. IT shall in like manner be lawful for the Executive, whensoever
1788. ch. 73. any building or buildings duly appointed for the holding of any court shall be destroyed, by proclamation to direct such court to be holden in any other building or buildings until the building or buildings so destroyed shall be rebuilt. *PROVIDED always,* That the Court of Appeals, High Court of Chancery, and General Court, shall continue to be holden in such case, in the city of Richmond; the District Courts in the counties in which they are appointed to be holden by law; and the county courts within their respective counties and jurisdiction.

SEC. VI. ALL and every act, and parts of acts, within the purview of this act, are hereby repealed.

A BILL reducing into one Act, the several Acts declaring who shall be Conservators of the Peace within this Commonwealth.

1789. ch. 30. SECTION I. **B**E it enacted by the General Assembly, That the judges of the Court
s. 16. of Appeals, High Court of Chancery, and General Court, shall be conservators of the peace throughout the commonwealth; and the justices of the peace in each county and corporation, shall be conservators of the peace within their several counties and corporations respectively, and the said judges and justices within the limits aforesaid respectively shall have power to demand of such persons as are not of good fame, sufficient surety and mainprize of their good behaviour.

SEC. II. EVERY act, clause, and part of any act within the purview of this act, shall be, and the same is hereby repealed.

A BILL to reduce into one, all Acts and parts of Acts, respecting County and Corporation Clerks.

Oct. 1784. SECTION I. **B**E it enacted by the General Assembly, That every person hereafter
ch. 60. s. 2. admitted into office by any county or other inferior court, as clerk or deputy clerk of such court, shall at the time of his admission or appointment to such office, take the following oath: "I, A. B. do swear that I will well and
"truly exercise the office of according to the best of my skill and
"judgment, making due entries and record of all orders, judgments, decrees, opi-
"nions, or proceedings of the court, and carefully filing and preserving in my
"office all books and papers whatsoever, which shall be delivered me in charge,

"or otherwise come to my hands or possession by virtue of my said office; and that
 "I will not wittingly or willingly commit any malfeasance of office, but in all
 "things and at all times, keep my said office free and accessible to every person
 "having a right or claim to business therein and faithfully executing the duties
 "thereof, without, favor, affection, or partiality. SO HELP ME GOD." And
 "any person shall presume to execute the office of clerk or deputy clerk of any
 county or other inferior court, without taking such oath, he shall forfeit and pay
 five hundred pounds, and suffer one year's imprisonment without bail or mainprize.

SEC. II. IF any clerk shall wittingly make any false entry, or rase, alter, or change any record in his keeping belonging to his office, every such clerk so offending shall be amerced and imprisoned at the discretion of a jury; and shall moreover be liable to the action of the party grieved. And if any judgment be reversed by reason of any such false entry, rasure, alteration, or change, the party grieved may sue by writ of error, or otherwise according to the law, if he see it expedient for him. Stat. 8 R. 2d. ch. 4.

SEC. III. EVERY clerk of a county or other inferior court shall at the time of his appointment and qualification, as aforesaid, enter into bond, with security to be approved of by the court, in the penalty of one thousand pounds, payable to the governor and his successors for the time being, with condition for the due and faithful execution of his office, and that he will not remove or carry, or suffer to be carried or removed out of the county or corporation, the records and papers of the court whereof he is clerk, or any part thereof, except in cases allowed by law; which bond shall by such clerk be transmitted within three months to the clerk of the council for the time being, to be by him registered and preserved among the papers of the executive, and may be prosecuted upon, and the penalty thereof recovered against any such clerk, at the discretion of the General Court, for any malfeasance of office; and such clerk failing to transmit such bond to the clerk of the council for the time being, within the term aforesaid, shall forfeit and pay one hundred pounds, or presuming to execute his office without entering into such bond, shall forfeit and pay two hundred pounds, and suffer three months imprisonment. 1784. ch. 60. s. 3.

SEC. IV. IT shall not be lawful for the court of any county or corporation, or the clerk of any such court to remove, or cause to be removed, the records and papers of the same, or any part thereof, without the county or corporation, except in cases of actual invasion or insurrection, where in the opinion of the court the same will be endangered, or where for want of such opinion, occasioned by the suddenness of the alarm or danger, the clerk shall at his own discretion remove the same, returning them as soon as the alarm or danger ceases, or except also in other cases heretofore provided for by law; any member of a court, or clerk of the same, offending herein, shall forfeit and pay two hundred pounds. Ib. s. 4.

SEC. V. EVERY clerk appointed since the fourth day of June, one thousand seven hundred and seventy-six, as well as those hereafter to be appointed, shall moreover reside within the county or corporation in which they shall hold their office, under penalty of being incapacitated therefrom, by information in the General Court. All the penalties by this act imposed, shall be prosecuted for, and recovered, by bill, plaint, or information, in any court of record; one moiety to the use of the informer, and the other moiety to the use of the commonwealth. 1784. ch. 60. s. 5.

SEC. VI. THE clerks of the several courts aforesaid, shall respectively, on or before the first day of April, and first day of October, in every year, account for on oath, and pay into the public treasury, all the monies which by an act, intituled, "An act to reduce into one, the several acts concerning the public revenue," they are authorized to receive, after a deduction of five per centum therefrom, as a commission for the service hereby imposed; and in case of fraud herein by any clerk, he shall, on conviction thereof, be deprived of his office. Ib. ch. 47. s. 4.

SEC. VII. AND whereas it sometimes happens that the courts of the counties and corporations within this commonwealth are so divided in the appointment of

their clerks, that neither of the candidates can be elected, whereby great inconveniencies arise to the suitors in such courts :

1787. ch. 23. SEC. VIII. *BE it therefore enacted*, That whensoever the court of any county
s. 2. or corporation within this commonwealth, shall be so divided in the appointment of a clerk, that neither of the candidates shall be elected, it shall be lawful for the high sheriff of such county , and he is hereby required, to give his vote in favor of one of those candidates between whom the court shall be divided.

1745. ch. 1. SEC. IX. AND whereas several of the county and corporation court clerks in
s. 14. this commonwealth, have neglected to record deeds, wills, and other matters of consequence, *Be it enacted*, That the justices of the several county and corporation courts, shall, annually, appoint two or more fit persons of their number, to inspect the clerk's office of their county or corporation, and to report to the next court, the condition in which they find the papers and records.

1764. ch. 6. SEC. X. THE clerk of every county and corporation court shall enter in a
s. 11. docket, or book by him to be kept for that purpose, a list of all executions by him issued, the name of the person to whom delivered, and what return is made thereon, in case the same be returned, and shall constantly carry the said book to his court.

ALL and every act and acts, or parts of acts, within the purview of this act, shall be, and the same are hereby repealed.

A BILL concerning Counsel, and Attornies at Law.

SECTION I. **F**OR prescribing the mode of licensing counsel and attornies at law, and regulating their practice;

SEC. II. *BE it enacted by the General Assembly*, That before any person shall be licenced to practise as counsel or attorney at law in any of the courts of this commonwealth, he shall produce to those authorized hereby to grant licenses, a certificate from the court of that county where he hath usually resided for the last preceding twelve months, that he is a person of honest demeanor, and is upwards of twenty one years of age; and three of the judges of the Superior Courts upon such certificates being produced to them, may, and they are hereby authorized and empowered to grant to the person producing the same, a licence under their hands and seals to practise the law in the superior and inferior courts of this commonwealth, if after examination they shall be of opinion that he is duly qualified.

SEC. III. EVERY counsel and attorney before he shall be permitted to practise in any of the courts of this commonwealth, shall first produce his licence in each court where he intends to practise, and in the presence of such court shall give assurance of fidelity to the commonwealth, and shall moreover take the following oath of office, to wit: " I A. B. do solemnly swear that I will honestly demean myself in the practice of the law, as counsel or attorney, and will in all respects execute my office according to the best of my knowledge and abilities."

SEC. IV. IF any person shall presume to practise as counsel or attorney in any of the said courts without a licence first obtained as aforesaid, or without qualifying himself in such court in the manner before directed, he shall for every such offence forfeit and pay the sum of fifty pounds for every cause he shall prosecute or defend in any of the said courts; one moiety to the use of the informer, the other

moiety to the use of the commonwealth, to be recovered by action of debt in any court of record.

SEC. V. EVERY person that hath already been, or shall hereafter be, convicted of any felonious crime, shall be incapable of obtaining such licence, or if licensed, the judges of any court, in which such person may practise, on proof thereof being made to them, may supercede his licence.

SEC. VI. IF the judges of the General Court, either in the General Court or District Courts, from their own observation, detect any mal-practice in either of the said courts, in any counsel or attorney of those courts, or either of them, or if a complaint in writing be made to them of such mal-practice in the said courts, or in the court of any county or corporation, the party accused shall be summoned to shew cause, why an information should not be filed against him. And if such information should be ordered, and the counsel or attorney thus offending should be found guilty of the matter therein charged, the said judges either in the General Court or District Courts, as the case may happen, may either suspend his licence during a certain time, or vacate it altogether, as they shall judge most proper.

SEC. VII. THE judges of the Court of Appeals and of the High Court of Chancery, shall have the like power, over counsel and attornies practising at the bars of their respective courts, and in case an information should be directed by the judges of either of the said courts, they may cause a jury to be empannelled to try such information, in like manner as informations are tried in the General Court or in the District Courts: *Provided always*, that nothing herein contained shall be construed to hinder the justices of any county court or other inferior courts, from causing any attorney practising in such courts to find security for his good behaviour, or fining such counsel or attornies for misdemeanor, or contempts offered to them, in the same manner as if this act had never been made.

SEC. VIII. NO counsel or attorney who shall prosecute any suit in an inferior court in which an appeal may be prayed, shall be permitted to appear or prosecute such appeal in any superior court, to which the same may be carried or removed; and any counsel or attorney who shall appear to or prosecute such appeal in any superior court, shall forfeit the sum of twenty pounds, to be recovered with costs by action of debt in any court of record within this commonwealth. The whole penalty shall be appropriated to him who will sue for and recover the same.

SEC. IX. IF any suit shall be dismissed for the non-attendance of an attorney practising either in the superior or inferior courts, not having a just and reasonable excuse, it shall be at his costs, and he shall moreover be liable for all damages his client shall sustain by such dismissal, or any other neglect of his duty; to be recovered in any court of record within this commonwealth. And every attorney receiving money for his client, and refusing to pay the same when demanded, shall be proceeded against in a summary way, on notice before any court of record, in the same manner as sheriffs are liable to be proceeded against for money received on executions.

SEC. X. IN all such cases where the sheriff is authorized by law to take the engagement of an attorney endorsed upon the writ, that he such attorney will appear for the defendant or defendants in lieu of bail, every attorney thus entering into such engagement, who shall fail to enter an appearance agreeable thereto, shall forfeit to the defendant or defendants fifty shillings, for which judgment shall be immediately entered and execution may issue thereupon.

SEC. XI. THE judges of the General Court and of the District Courts, shall not suffer in suits hereafter to be commenced more than two attornies to argue on any one side, except in criminal cases, unless good cause be shewn for departing from this regulation.

SEC. XII. IF any attorney, or other person practising as an attorney, shall presume to appear under any power of attorney made before action brought for confessing or suffering judgment to pass by default or otherwise, for any defendant in any court of record within this commonwealth, such attorney shall, for every such offence, forfeit and pay five hundred pounds current money to such defendant, for his own use; to be recovered with costs, by action of debt or information, in any court of record, and moreover shall be liable to an action for damages at the suit of the party grieved.

1748. ch. 4.
s. 29. SEC. XIII. NO justice of peace, sheriff, under sheriff, or clerk of any county court, shall appear or plead as attorney for any person or persons whatsoever, in the court of the county whereof he is a member, officer, or clerk, except only as general attorney for any person or persons not residing or being within this commonwealth, under penalty of being fined by such court in the sum of ten pounds current money for every such offence, to the use of the same county, towards lessening the levy thereof.

1761. ch. 3.
s. 11. SEC. XIV. THE lawyers in this commonwealth shall not demand, nor directly or indirectly, or by any device, way or means whatsoever, take or receive, before the suit or suits they are or shall be employed in shall be finally determined, any greater or other fees or rewards for the following services, than what are herein particularly mentioned and expressed, that is to say: Lawyers practising in the General Court, may demand and receive for an opinion or advice, where no suit is or shall be brought and prosecuted or defended by the attorney giving such advice, but not otherwise, one pound one shilling and six pence; and in any suit other than where the title or bounds of land shall or may come in question, fifty shillings; in those where the title or bounds of lands shall or may come in question, five pounds; in any suit in the High Court of Chancery, the fee last mentioned; in any suit in a District Court, where the title or bounds of land shall or may come in question, thirty shillings; and in all other causes, fifteen shillings, except in causes transferred from the General Court, in which the fee shall be the same as in the General Court.

SEC. XV. AND lawyers practising in the county courts, or other inferior courts, for services to be by them done in such courts, may demand for an opinion or advice, where no suit is or shall be brought, or prosecuted, or defended by the attorney giving such advice, but not otherwise, ten shillings; and in any suit at common law, other than the actions hereafter mentioned, or by petition, fifteen shillings; in all chancery suits, or real, mixed, or personal actions, where the title or bounds of land shall or may come in question, thirty shillings; on a petition for a small debt, seven shillings and six pence; and any lawyer for attending a survey in the country, for every day he shall attend, may demand one pound one shilling and six pence, which last-mentioned fee may be taxed in the bill of costs. And every lawyer exacting, taking, receiving, or demanding any greater fee, or other reward, for any of the above services, before he has performed the said services, or finished the said suits, shall forfeit and pay fifty pounds for every offence; one half to the Governor for the time being, for the use of the commonwealth, and the other half to the informer; to be recovered by action of debt or information, in any court of record within this commonwealth.

Ib, s. 12. SEC. XVI. NO lawyer in any suit to be brought for his fees or services, shall recover more than the fees above-mentioned, notwithstanding any agreement, contract, or obligation, made or entered into by the party against whom such suit shall be brought.

SEC. XVII. THE clerks of the High Court of Chancery and General Court, respectively, shall tax in the bill of costs on all decrees obtained in the former, and on all judgments in the latter, in any action wherein the title or bounds of land shall or may come in question, a fee of five pounds, or one thousand pounds of tobacco, at the election of the party adjudged to pay the same; and in all other cases in the said last-mentioned court, the clerk shall tax a fee of fifty shillings, or five hundred pounds of tobacco, where the party obtaining such decree or judgment employed a lawyer, except against executors or administrators, or where the

plaintiff may not recover more costs than damages; and the clerks of the respective District Courts, and county courts, or other inferior courts, shall tax in the bill of costs in all judgments in any action where the title or bounds of land shall or may come in question, and on all decrees in chancery, either when the plaintiff shall recover or be non-suited, or where his suit shall be dismissed, thirty shillings, or three hundred pounds of tobacco. And in all other actions or suits, except such as are brought by petition in the county or other inferior courts, fifteen shillings, or one hundred and fifty pounds of tobacco, for an attorney's fee, if the party employed one, except against executors or administrators, or where the plaintiff may not recover more costs than damages, and except also such suits as have been transferred from the General Court to the District Courts, in which last-mentioned suits, the same fees shall be taxed as if they had been determined in the General Court. And in all suits by petition, the clerks of the said county courts, and other inferior courts, shall tax in the bill of costs, where an attorney shall be employed, seven shillings and six pence, as an attorney's fee, against the party who shall be cast, except against executors or administrators.

ALL and every act and acts, clause or clauses of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

A BILL reducing into one Act, the several Acts directing the manner of Proceeding in Cases of Impeachment.

SECTION I. **B**E it enacted by the General Assembly, That the process against any person impeached by resolution of the House of Delegates, shall be summons, attachment and distress, bearing teste, the first of them, the day of emanation, and the others the return day of the process preceding, and shall be issued and signed by the clerk of that court where such impeachment is, by the constitution, directed to be tried as soon as such impeachment shall be notified to him by the Attorney General, or any other person or persons appointed by the House of Delegates to prosecute the same.

Const. art. 16.
17.
1788. ch. 67.
s. 128. 129.
130.
Ib:—ch. 68.
s. 5. 6. 7.
1789. ch. 40.

SEC. II. A COPY of the articles of impeachment shall be delivered to the party accused whensoever he shall require it, and the court shall from time to time make such rules for compelling him to answer, and bringing the matter to issue speedily as to them shall seem reasonable.

SEC. III. NO person shall be found guilty, on an impeachment, but by a jury, for which purpose, as soon as any matter of fact shall be put in issue, the clerk of such court shall issue a *venire facias* to the sheriffs of the senatorial district wherein the person accused resides commanding them to summon, in their counties to the first day of the next succeeding court, in proportions as nearly equal as possible, twenty-four jurors qualified according to law for the trial of other criminal cases, which process may be repeated by order of the court as often as it shall be necessary. The prosecutor for the commonwealth and the person accused, shall in open court, alternately strike one, until the number shall be reduced to twelve; which remaining twelve shall be a jury, and shall try the impeachment, render a verdict and proceed in the same manner as is prescribed in the case of an indictment in the district courts. The jurors shall have the same allowance, and be subject to like penalties as in the case of *venire* men attending the District Courts. If twenty-four jurors should not appear, bystanders may be summoned to make up the deficiency.

SEC. IV. THE party accused may have one or more counsel without petitioning the said court.

SEC. V. A PERSON impeached may for good cause, challenge a juror either before or after the names shall be struck.

SEC. VI. NO impeachment shall be tried during the session of the General Assembly, unless the party accused shall request it.

SEC. VII. A PERSON found guilty on impeachment shall be either forever disabled to hold any office under government, or removed from such office *pro tempore*, or subjected to such pains or penalties as any act of the General Assembly may direct.

ALL and every act within the purview of this act shall be, and the same are hereby repealed.

A BILL concerning Grand Juries, Petit Juries, and Venire-Men.

22d. Geo. 2d. SECTION I. **F**OR the more regular inquiry into breaches of penal laws, and
ch. 7. s. 1. trials of matters of fact in the several courts of justice within this commonwealth, by juries;

1788. ch. 67. *BE it enacted by the General Assembly,* That the sheriff of each county where a
s. 106. District Court is appointed to be holden, shall, before every meeting of such court, summon twenty-four of the most discreet freeholders of the district, to appear at the succeeding District Court, on the first day thereof, which the said sheriff is hereby empowered to do, as well without his county as within the same; and the said twenty-four freeholders, or any sixteen of them, shall be a grand jury, who shall be sworn to inquire of and present all treasons, murders, felonies, or other misdemeanors, whatsoever, which shall have been committed or done within the district for which they are impannelled.

22d. Geo. 2d. SEC. II. THE sheriff of each county, and the serjeants of the cities of William-
ch. 7. s. 1. sburg, Richmond, and borough of Norfolk, shall, before every quarter session of
1790. ch. 64. the county or corporation courts, respectively summon twenty-four freeholders of his county or corporation, not being ordinary keepers, constables, surveyors of highways, or owners or occupiers of a mill, out of which number shall be impannelled a grand jury of sixteen at the least, who shall be sworn to enquire into the breach of penal laws, and make presentment of the offenders; but shall present
1785. ch. 8. such offences and breaches only, as shall have been committed within the space of twelve months before the time of such presentment, unless the same be otherwise directed by law; and such grand juries having presented all such matters as come to their knowledge shall be discharged, always observing that when they make presentment upon information of any other persons than themselves, to write the name and surname of the prosecutor, and the town or county in which he shall reside, with his title or profession under such presentment, for the more effectual prosecution thereof.

1790. ch. 64. SEC. III. *PROVIDED,* That the inhabitants of the borough of Norfolk
s. 6. shall not be grand jurymen for the county of Norfolk.

22. Geo. 2d. EVERY such grand jury for a county or corporation, shall and may present all
ch. 7. s. 1. offences made penal by the laws of this commonwealth, although the recovery of the fines for such offences shall be otherwise directed by the laws inflicting the same; and although the forfeiture or penalty thereby inflicted shall not amount to twenty-five shillings current money, or two hundred pounds of tobacco.

1786. ch. 57. SEC. IV. IN a presentment to the county court, if the penalty of the offence exceed not thirty shillings, or three hundred pounds of tobacco, or to the General Court if the penalty exceed not five pounds of current money, or one thousand pounds of tobacco, no information thereupon shall be filed, but a summons shall be

issued against the defendant to answer the presentment, and such summons having been served upon him, or a copy thereof having been left at the place of his usual abode, where the prosecution shall be in the county court, at least ten days before the return day, if he do not appear, judgment shall be entered against him for the penalty, and if he do appear, the court shall in a summary way, without a jury, hear and determine the matter of the presentment, in the form in which it shall have been made, and give judgment thereupon according to law and the very right of the cause, disregarding any exception that may or might be taken to the form of the presentment.

SEC. V. EVERY freeholder summoned to appear on a grand jury as aforesaid, and failing to attend, not having a reasonable excuse, shall be fined by the courts respectively, not exceeding four hundred pounds of tobacco, unless good cause be shewn to the contrary at or before the next court, to the use of the commonwealth. 22. Geo. 2d. ch. 7. s. 1. 1788. ch. 67. s. 108.

SEC. VI. NO grand jury shall make presentment of their own knowledge, upon information of fewer than two of their own body, nor in the District Courts where the penalty inflicted by law is less than twenty shillings, or two hundred pounds of tobacco. 22. Geo. 2d. ch. 7. s. 4. 1788. ch. 67. s. 107.

SEC. VII. IN case of the sickness, death, or non-attendance of any grand juror or grand jurors, after he or they shall be sworn, it shall be lawful for the court to cause others to be sworn in his or their stead. Ib. ch. 67. s. 106.

SEC. VIII. FOR the trial of all causes in the District Courts, and in the county and other inferior courts where a jury may be necessary, the sheriff or other officer attending such courts respectively, shall every day the court sits, summon a sufficient number of bystanders, qualified as herein after is directed, to attend the court that day, that out of them may impanelled sufficient juries, for the trial of causes depending in such courts; and if any person so summoned shall fail to attend the court accordingly, he shall be fined four hundred pounds of tobacco, to the use of the commonwealth. 22. Geo. 2d. ch. 7. s. 3.

SEC. IX. NO person shall be capable to be of a petit jury for the trial of treason, felony, breach of the peace, misprision of treason, breach of a penal law, or any other pleas of the commonwealth, or of any estate of freehold, or estate or title in or to lands, tenements, or hereditaments in any court of record of this commonwealth, or to be a juror in any cause whatsoever depending in the district or any other of the superior courts of the commonwealth, unless such person be a freeholder, and possessed of a visible estate real or personal, of the value of one hundred pounds current money at the least. Ibid. s. 6.

SEC. X. NO person shall be capable to be of a jury for the trial of any cause whatsoever, in any county court or other inferior court, unless he be possessed of a visible estate real or personal of the value of fifty pounds at the least. Ib. ib.

SEC. XI. NO sheriff or other officer shall at any time summon or return any juror, not qualified as this act directs. Ib. ib.

SEC. XII. PROVIDED always, That no exceptions against any juror, on account of his estate, shall be allowed after he is sworn. Ib. ib.

SEC. XIII. JURIES *de medietate linguæ* may be directed by the courts respectively. 1788. ch. 67. s. 44.

1788. ch. 67, SEC. XIV. JURORS knowing any thing relative to the point in issue, shall
s. 45. disclose the same in open court.

Ib. 46. SEC. XV. ANY juror guilty of a contempt to the court, may be fined by such court in any sum not exceeding ten pounds.

Ib. 48. SEC. XVI. NO sheriff shall converse with a juror but by order of the court, after the jury have retired from the bar.

22. Geo. 2d. SEC. XVII. IF any sheriff shall fail to summon a grand jury, and return a
ch. 6. s. 1. pannel of their names as herein directed, he shall forfeit and pay one thousand pounds of tobacco, for the use of the commonwealth.

1788. ch. 67, SEC. XVIII. EVERY *venire* man summoned and attending the District Court
s. 103. for the trial of any person charged with a criminal offence, shall have the same allowance for travelling and attendance, as is provided in the case of witnesses, to be paid by the public.

Ib. s. 104. SEC. XIX. IF any person so summoned as a *venire* man, shall fail to attend accordingly, not having a reasonable excuse, to be made at the time he should have appeared, or at the next District Court, every such person may be fined by the court not exceeding forty shillings, or four hundred pounds of tobacco, to the use of the commonwealth.

1789. ch. 26. SEC. XX. IF any juror upon any inquest whatsoever, shall take any thing by
s. 3. himself, or another to give his verdict, and shall be thereof convicted, such juror shall not thereafter be put on any jury, and shall pay ten times as much, as he shall have taken; whereof one half shall go to him who will sue for the same, and the other half to the commonwealth.

ALL and every act and acts, clauses and parts of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

A BILL directing the method of proceeding against free Persons charged with certain Crimes; declaring the mode of Proceeding on Indictments, Informations, and Prosecutions on Penal Statutes; and for preventing vexatious and malicious Prosecutions, and moderating Amercements.

1788. ch. 67. SECTION I. **B**E it enacted by the General Assembly, That when any person not
s. 95. being a slave shall be charged before a justice of the peace with any criminal offence, which in the opinion of such justice, ought to be examined into by the county court, the said justice shall take the recognizance of all material witnesses to appear before such county court, and immediately by his warrant commit the person so charged to the county jail, and moreover, shall issue his warrant to the sheriff of the county, requiring him to summon the justices of the county to meet at their court-house on a certain day, not less than five, nor more than ten days after the date thereof, to hold a court for the examination of the fact; which court shall consider whether, as the case may appear to them, the prisoner may be discharged from further prosecution, may be tried in the county, or must be tried in the District Court.

Ib. ib. SEC. II. IF they shall be of opinion, that the fact may be tried in the county, the prisoner shall be bound over to the next grand jury, to be held for that county,

then to be tried, or, upon refusing to give sufficient bail, shall be remanded to the county gaol, there to remain until such court, or until he or she shall be bailed.

SEC. III. IF they shall be of opinion that the prisoner ought to be tried in the District Court, they shall take the depositions of witnesses, and bind such as they shall think proper, by recognizance to appear and give evidence against such criminal at his or her trial, and having remanded the prisoner to gaol, any two of the justices, by warrant under their hands and seals, shall direct the sheriff or his deputy, to remove the prisoner and commit him or her to the district gaol, there to be safely kept until he or she shall be discharged by due course of law; by virtue of which warrant, the sheriff or his deputy as soon as may be, shall remove the prisoner, and deliver him or her, with the warrant, to the keeper of the district gaol, who shall receive and safely keep him or her accordingly. 1788. ch. 67. s. 95.

SEC. IV. AND for enabling the sheriff or his deputy, safely to convey, and deliver such prisoner, the said two justices by their warrant, shall empower him, as well within his county as without, to impress such and so many men, horses, and boats, as shall be necessary for the guard and safe conveyance of the prisoner, proceeding therein as the law may direct in cases of impressing on other occasions; and all persons are to pay due obedience to such warrant. Ib. ib.

SEC. V. IF such prisoner shall, in the opinion of the court, be bailable by law, they shall enter that opinion in their proceedings and also the sums of money in which he and his bail ought to be bound, and he or she shall not be removed within twenty days after the examining court, but shall and may be admitted to bail before any justice of the same county within that time, or at any time afterwards before any judge of the General Court. Ib. ib.

SEC. VI. WHEN a prisoner shall thus be admitted to bail by any judge of the General Court, such judge shall transmit the recognizance to the clerk of the District Court, and give a warrant for the deliverance of the prisoner; and the warrant being put into the hands of the officer, in whose custody the prisoner shall be, he shall thereupon be delivered, if he be detained for no other cause. 1786. ch. 57.

SEC. VII. ANY two Judges of the General Court when it is not sitting may admit to bail a prisoner when they shall think him or her entitled thereto, and grant a warrant for his deliverance, notwithstanding the justices before whom the examination was, shall have been of a different opinion. Ib. ib.

SEC. VIII. WHEN the justices shall have determined that a prisoner ought to be tried for an offence in the District Court, the clerk of the court where such examination shall be had, shall issue a *venire facias* to be directed to the sheriff, commanding him to cause twelve good and lawful men, freeholders of his county, of the neighborhood of the place where the fact shall have been committed, to come before the Judges of the District Court, at the time the witnesses shall be bound to appear there, which writ shall be executed by the said sheriff, and the freeholders summoned by virtue thereof, or such of them as appear and be not challenged, together with so many other good and lawful men of the bystanders, being freeholders within this commonwealth, as will make the number twelve, or if the whole array be challenged, twelve of such bystanders shall be a lawful jury for the trial of the prisoner. Ib. ib.

SEC. IX. NO justice of the peace or member of a corporation court, who shall have committed any person for examination by the court of his county or corporation, or shall have been a member of the examining court, shall be sworn on the petit jury impanelled for the trial of such person. 1789. ch. 13. s. 28.

SEC. X. AFTER any man shall be indicted of treason or felony, if he be not already in custody, the sheriff shall be commanded to attach his body by writ, or by

precept, which is called a *capias*, and if he return that the body is not found, another writ or precept of *capias* shall be immediately made returnable forthwith, in which the sheriff shall also be commanded to seize his chattels, and safely to keep them; and if he return that the body is not found, and the indietee cometh not, an *exigent* shall be awarded, and the chattels shall be forfeited; but if he come, and yield himself, or if he be taken before the return of the fourth *capias*, the goods and chattels shall be saved.

1786. ch. 57. SEC. XI. IN all trials for such offences, the prisoner shall have a copy of the indictment, and of the pannel of the jurors, who are to try him, whensoever he shall require it before trial or sentence.

1789. ch. 30.
s. 3. SEC. XII. WHENSOEVER an inquest be about to be taken in any court, in which inquest the commonwealth is a party, if he who appears and sues in behalf of the commonwealth, will challenge any of the jurors, he shall assign a cause certain for his challenge, and the truth of such challenge shall be judged of by the court; and if such challenge be sufficient, the juror shall be rejected, or if insufficient, he shall be admitted, and in either case the inquest shall be proceeded in.

Ib. ib. s. 4. SEC. XIII. NO person arraigned for treason, shall be admitted to a peremptory challenge above the number of twenty-four, nor shall any person arraigned for murder or felony, be admitted to a peremptory challenge above the number of twenty.

1786. ch. 57. SEC. XIV. WHEN the grand jury shall have presented to the District Court a bill of indictment against any person charged with treason or felony, the court shall cause the offender to be arraigned and tried the same term, if he be in the custody of the gaoler, or if he be bailed and forth-coming agreeable to his recognizance, unless they see good cause to adjourn the trial to the next term; and shall allow him counsel to assist him at his trial, if he desire it.

Ib. ib. SEC. XV. WHEN any prisoner committed for treason or felony, shall apply to the court the first day of the term, by petition or motion, and shall desire to be brought to his trial before the end of the term, and shall not be indicted in that term, unless it appear by affidavit that the witnesses against him cannot be produced in time, the court shall set him at liberty, upon his giving bail, in such penalty as they shall think reasonable, to appear before them at a day to be appointed of the succeeding term.

Ib. SEC. XVI. EVERY person charged with such crime, who shall not be indicted before or at the second term, after he shall have been committed, unless the attendance of the witnesses against him appears to have been prevented by himself, shall be discharged from his imprisonment, if he be detained for that cause only; and if he be not tried at or before the third term after his examination before the justices, he shall be forever discharged of the crime.

1788. ch. 67.
s. 101. SEC. XVII. IF a prisoner shall desire any witnesses to be summoned for him or her to appear, either at the examining court, or on the trial at the District Court, the clerk of the said court, or of the county court (as the case may be) shall issue subpoenas for such witnesses, who, being summoned, and attending, shall have the like allowance for travelling and attendance, and be subject to the same penalty for failing to attend, as is provided for witnesses in civil cases.

1786. ch. 57. SEC. XVIII. EXECUTION of a sentence of death shall not be done in less than thirty days after judgment shall have been given against the prisoner.

SEC. XIX. WHERE the prisoner shall be convicted, and hath estate sufficient to pay the charges of prosecution, the whole shall be paid out of such estate and the public only made chargeable where there is no estate, or not sufficient; to be found. 1788. ch. 67. s. 112.

SEC. XX. TO the end that a certain and adequate mode may be fixed by law for the regular payment of the expenses attending the examination and trial of criminals in the county and other inferior courts, in all cases where such expenses ought to be paid by the public: *Be it enacted*, That the several county and corporation courts within this commonwealth, having jurisdiction in such examinations and trials, shall, annually, in the month of September or October, cause to be certified to the auditor of public accounts, all claims for expenses accruing after the first day of January, one thousand seven hundred and eighty-eight, from the examination and trial of criminals, for guards and the maintenance of criminals in their respective counties and corporations, for conveying them to the district gaols for further trial, and for imprisonments, for misdemeanor or breach of the peace, and all other charges properly chargeable to the public, together with the vouchers on which such claims have been allowed; and the auditor is hereby authorized and required to liquidate and adjust the said claims, and after having converted such of them as are in tobacco (the price whereof is not otherwise settled by law) into money, at the rate of twelve shillings and six pence per hundred, to grant warrants on the treasury to the respective claimants for the amount of their claims; which warrants so issued, shall be receivable in payment of taxes, in like manner as those granted for expenses attending criminal prosecutions in the District Courts. 1787. ch. 44. s. 1.

SEC. XXI. THE clerks of the District Courts shall enter in books to be kept for that purpose, the names of jurors attending for the trial of prisoners, and the names of witnesses appearing on behalf of the commonwealth against them, with accounts of the days they shall have attended, the ferries they shall have crossed, and the distances they shall have travelled on that occasion, and certify such entries to the auditor of public accounts. 1786. ch. 57.

SEC. XXII. WHERE any person shall be feloniously stricken or poisoned in one county, and shall die of the same stroke or poisoning in another county, the offender shall be examined according to law, by the court of the county where such stroke was given, or poison administered, and he shall be tried in the court of the district in which such county lies. 1789. ch. 30. s. 6.

SEC. XXIII. IN like manner an accessory to a murder or felony committed, shall be examined by the court of that county, and tried by the court of that district, in which he became accessory; and shall answer upon his arraignment, and receive such judgment, order, execution, pains, and penalties, as are used in other cases of murder or felony. Ibid. s. 7.

SEC. XXIV. WHENSOEVER in treason or felony, any person shall stand mute on his arraignment, or persist after being admonished by the court, in not answering to the indictment, or in peremptorily challenging above the number of jurors which by law he may be allowed to challenge peremptorily, or shall be out-lawed, he shall be considered as convicted, and the same judgment, execution, and disabilities, shall take place and be awarded, as if he had been convicted by verdict, or confession of the crime. Ibid. s. 16.

SEC. XXV. IF treason or felony be committed in a county different from that in which the culprit shall be arrested, any justice of that county in which he or she is arrested, may, by his warrant, cause the offender to be put into the custody of a sheriff, to be by him conveyed to the county or corporation where the offence was committed (and every sheriff while he shall officiate in execution of this act, may impress so many men, horses, and boats, as may be necessary for the safe-guard and conveyance of the offender into such other county) and there brought before some justice thereof, who shall proceed in like manner, as if the offender had been brought before him in the first instance; and the sheriff for removing a criminal 1786. ch. 57.

from one county to another shall be allowed the same fee per mile for such service as is allowed to sheriffs for removing criminals from the county to the district gaol, to be paid in like manner as other expenses for criminal prosecutions.

1788. ch. 67, s. 102. SEC. XXVI. WHEN any person shall be removed to be tried for treason or felony in the District Court, the clerk of the court for the county from whence the prisoner is removed, shall immediately after the court holden for his or her examination, transmit to the attorney for the commonwealth in the District Court, a copy of the warrant for his or her commitment, and of the depositions taken on the examination.

1789. ch. 30. s. 1. SEC. XXVII. IN indictments in which the *exigent* shall be awarded, in the names of the defendants, in such indictments, additions shall be made of their estate or degree, or mystery, and of the counties of which they were or be, or in which they be or were conversant, and if on the process upon the said indictments, in which the said additions be omitted, any outlawries be pronounced, they shall be void, frustrate and holden for none; and before the outlawries be pronounced the said indictments shall be abated by the exception of the party, wherein the said additions be omitted.

Ib. s. 5. SEC. XXVIII. IN any inquisition or indictment, the words "force and arms," or any particular words descriptive of any particular kind of force and arms, shall not of necessity be put or comprized.

1786. ch. 16. s. 3. SEC. XXIX. NO indictment for high treason, misprision of treason, murder or other felony or offence whatsoever, shall be quashed for the omission of the name of any parish, town, ville, or hamlet, within any county of this commonwealth; nor shall such omission, after conviction on such indictment, be any cause to stay or arrest judgment; nor shall any judgment on such indictment be liable to be reversed on a writ of error, by reason of such omission.

Ib. ch. 64. s. 2. SEC. XXX. NO information for a trespass or misdemeanor shall be filed in any court but by express order of the court, entered on record, nor unless the party supposed to be culpable shall have failed to appear and shew good cause to the contrary, having been required so to do by a summons, appointing a convenient time for that purpose, served upon him, or left at his usual place of abode; and the name and surname of the prosecutor, and the town or county in which he shall reside, with his title or profession, shall be written at the foot of the information, before it be filed, and of every bill of indictment for any trespass, or misdemeanor, before it be presented to the grand jury.

Ib. ib. s. 3. 25. Geo. 2d. ch. 5. SEC. XXXI. IF the grand jury to whom such a bill of indictment last mentioned, is preferred shall not find the bill, or if the defendant shall appear to shew cause against the filing such information or to answer suuh information or indictment, and the prosecutor shall not proceed further, or if the defendant shall be found not guilty by the petit jury, or a judgment shall be given for him, he shall recover his costs against the prosecutor, with an attorney's fee, if one was employed, and the allowances to witnesses, to be taxed in the bill of costs, and may have execution for them, as the manner is in civil cases.

1786. ch. 64. s. 4. SEC. XXXII. IN every information or indictment, the amercement, which ought to be according to the degree of the fault, and saving to the defendant his contentment, shall be assessed by twelve honest and lawful men, either those by whom the offender shall have been convicted, in case of a verdict, or those who shall be impannelled for that special purpose, where judgment shall be given against him upon the argument of a demurrer, or by his confession or default.

SEC. XXXIII. NO escheator, sheriff, coroner, or other inquisitor, shall hereafter have power of amercement for default of common summons; save only the judges of the General and District Courts, or the respective county or corporation courts. 1786. ch. 64. s. 5.

SEC. XXXIV. UPON presentment made by the grand jury of an offence not capital, the court shall order the clerk to issue a summons, or other proper process against the person or persons so presented, to appear and answer such presentment at the next court, and thereupon hear and determine the same according to law. 1788. ch. 67. s. 109.

SEC. XXXV. IF any private person having any prisoner in his keeping, arrested for suspicion of felony, treason, or murder, and the person that is so arrested, escape by negligent keeping before that he be brought to the gaol; then the person from whom such prisoner so escaped, shall be liable to a fine, on being found guilty on an indictment in the court of that district in which such escape was made. 1789. ch. 30. s. 15.

SEC. XXXVI. NO sheriff, under sheriff, nor escheator, nor any other person shall take or seize the goods of any person accused or indicted of, or for, treason, murder, or other felony, except only in such cases where he shall be commanded by the precept of *capias* herein before directed, to seize the chattels of a person not in custody, against whom an indictment for any such offence shall have been previously found, upon pain to forfeit double the value of the goods so taken, to him that is so hurt in that behalf, by action of debt to be pursued in any court of record. 1786. ch. 57. Ib. s. 12.

SEC. XXXVII. WHENSOMEVER any person shall happen to be attainted, convicted, or outlawed of any treason, misprision of treason, murder or felony whatsoever, there shall in no case be a forfeiture to the commonwealth of dower, or of lands, slaves, or personal estate, but the same shall descend and pass in like manner as is by law directed in case of persons dying intestate; nor shall any attainder work a corruption of blood; any law or usage to the contrary in any wise, notwithstanding. 1789. ch. 30. s. 13.

SEC. XXXVIII. SAVING to all and every other person and persons, bodies politic and corporate, their heirs and successors, and to every of them (other than to such offender as shall be attainted, convicted or outlawed) all such right, title, interest, entry, leases, possession, condition, profit, commodity, and hereditaments, as they, or any of them had, or should, or of right ought to have, before or at the time of the said attainder, conviction, or outlawry. Ib. ib. s. 14.

SEC. XXXIX. APPROVERS shall never be admitted in any case whatsoever. Ib. ib. s. 8.

SEC. XL. ALL actions, suits, bills, indictments or informations which shall be had, brought, sued or exhibited upon any penal act of assembly, not affecting life or limb, made, or to be made, shall be had, brought, sued or exhibited within one year next after the offence committed against such penal act, and not after. Ib. ib. s. 9.

SEC. XLI. NO special bail shall be requirable in any suit brought upon a penal law, unless by such law, bail shall be expressly directed. 22. Geo. 2d. ch. 4. s. 17.

SEC. XLII. IN all cases where a fine is laid upon the justices of any county, one action may be brought against them all jointly. 27th Geo. 2d. ch. 1. s. 24.

SEC. XLIII. WHERE the penalty incurred by the breach of any penal law, shall not exceed five pounds or eight hundred pounds of tobacco, the same may be sued for and recovered in the manner directed by an act, intituled, "An act for recovering demands of a small value in a summary way." 1786. ch. 62.

SEC. XLIV. *AND be it further enacted*, That in all indictments for assaults and batteries, and other offences not capital, now depending or hereafter to be prosecuted, it shall be lawful for the court before whom the same shall be depending upon good cause to them shewn, to compel the prosecutor to find security for payment of the costs, and if such prosecutor shall fail to give security accordingly, the indictment shall be dismissed with costs.

ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act (except as herein after provided) shall be, and the same are hereby repealed.

PROVIDED always, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

A BILL declaring at what Time Restitution shall be made of Goods stolen.

Stat. 21. H. 8
ch. 11. SECTION I. **B**E it declared and enacted by the General Assembly, That if any felon or felons do rob or take away any money, goods or chattels from any person within this commonwealth, whether from their person or otherwise, and thereof the said felon or felons be afterwards convicted or attainted by reason of evidence given by the party so robbed, or by any other by his or her procurement, that then the party so robbed shall be restored to his said money, goods, or chattels: And the court before whom such felon shall be convicted or attainted, by reason of such evidence so given, shall have power to award from time to time writs of restitution accordingly.

ALL and every act and acts, clause and clauses of acts coming within the purview of this act, shall be, and the same are hereby repealed.

A BILL for Limitation of Actions; for preventing frivolous and vexatious Suits; concerning Jeoffails, and certain Proceedings in civil Cases.

22d. Geo. 2d.
ch. 1. s. 18. SECTION I. **B**E it enacted by the General Assembly, That all writs of *formedon in descender, remainder, or reverter* of any lands, tenements, or hereditaments whatsoever, hereafter to be brought upon any title or cause heretofore accrued, or which may hereafter fall or accrue, shall be sued out within twenty years next after such title or cause of action accrued, and not afterwards; and that no person or persons who now hath, or have, or hereafter may have, any right or title of entry into any lands, tenements, or hereditaments, shall make any entry but within twenty years next after such right or title accrued, and such person shall be barred from any entry afterwards.

Ib. ib. s. 19. SEC. II. *PROVIDED nevertheless*, That if any person or persons entitled to such writ or writs, or to such right or title of entry as aforesaid, shall be, or were under the age of one and twenty years, *feme covert, non compos mentis*, imprisoned, or not within this commonwealth at the time of such right or title accrued, or coming to them, every such person, and his or her heirs, shall and may, notwithstanding the said twenty years are, or shall be expired, bring and maintain his action, or make his entry, within ten years next after such disabilities removed, or the death of the person so disabled, and not afterwards.

SEC. III. IN all writs of right, and other actions possessory, any person may maintain a writ of right upon the possession or seizin of his ancestor or predecessor, within fifty years, or any other possessory action upon the possession or seizin of his or her ancestor or predecessor, within forty years, next before the teste of the writ; but no person shall maintain a real action upon his own possession or seizin, but within thirty years next before the teste of the writ.

21. Geo. 2d.
ch. 1. s. 20.

SEC. IV. ALL actions of trespass, *quare clausum fregit*, all actions of trespass, detinue, action *sur trover*, and *replevin*, for taking away of goods and cattle, all actions of account, and upon the case, other than such accounts as concern the trade of merchandize between merchant and merchant, their factors, or servants, all actions of debt grounded upon any lending or contract without specialty, all actions of debt for arrearages of rent, all actions of assault, menace, battery, wounding, and imprisonment, or any of them, which shall be sued, or brought, shall be commenced and sued within the time and limitation hereafter expressed, and not after, that is to say: The said actions upon the case, other than for slander, and the said actions for account, and the said actions for trespass, debt, detinue and replevin, for goods and cattle, and the said action of trespass, *quare clausum fregit*, within five years next after the cause of such action, or suit, and not after; and the said actions of trespass, of assault, battery, wounding, imprisonment, or any of them, within three years next after the cause of such actions, or suit, and not after; and the said action upon the case for words, within one year next after the words spoken, and not after.

4. Annæ, c. 8.
s. 1.

SEC. V. ALL actions or suits founded upon any account for goods, wares, and merchandize, sold and delivered, or for any articles charged in any store account, shall be commenced and sued within one year next after the cause of such action or suit, or the delivery of such goods, wares, and merchandize, and not after; except that in case of the death of the creditors, or debtors, before the expiration of the said term of one year, the further time of one year from the death of such creditor, or debtor, shall be allowed for the commencement of any such action or suit. And to prevent imposition or deception herein, the respective time or date of the delivery of the several articles charged in any such account, or any receipt taken for the delivery of them, shall be particularly specified. And if any merchant or trader shall wilfully post date, any article or articles in such account, or the receipt taken for the delivery of them, he shall forfeit and pay ten fold the amount of the article or articles, or of the receipt taken for the delivery of them, so post-dated, to be recovered with costs in any court of record, by petition, where the penalty incurred shall be under five pounds, or amounts to that sum only, and by action of debt or information, where the penalty shall be more than five pounds, to the informer, where the informer prosecutes, or to the commonwealth, where the prosecution shall be first instituted on the public behalf. And to prevent any doubt in the construction hereof, it is hereby declared, that the before-mentioned limitation of one year, shall take place and be computed, from the respective dates or times of delivery of the several articles entered or charged in any such account, and that all such articles as shall have been of more than one year's standing when the action or suit was commenced, shall be disallowed and rejected, and verdict shall be given or judgment rendered for no more than the amount of such articles as appear to have been actually charged or delivered, within one year next before the commencement of the suit, as aforesaid.

1779. Oct.
ch. 3. s. 2.

SEC. VI. *PROVIDED nevertheless*, That if in any of the said actions or suits, judgment be given for the plaintiff, and the same be afterwards reversed by error, or a verdict pass for the plaintiff, and upon matter alledged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing by his plaint, writ, or bill; in all such cases the party plaintiff, his heirs, executors, or administrators, (as the case shall require) may commence a new action or suit, from time to time, within one year next after such judgment reversed, or such judgment given against the plaintiff, and not after.

4. Annæ, c. 8.
s. 2.

SEC. VII. *PROVIDED always*, That in all questions which may arise in any court of record upon any act for limitation of actions making entries into lands, or limitation of evidence, in the computation of time, the several periods between the twelfth day of April, one thousand seven hundred and seventy-four, and the twelfth day of April, one thousand seven hundred and seventy-eight; and between the first day of January, one thousand seven hundred and eighty-one, and the fifth day of

Oct. 1777.
ch. 23. s. 2.
May 1781.
ch. 9. s. 2.
Nov. 1781.
ch. 12.

May 1783. January, one thousand seven hundred and eighty-two; and between the fifth day
 ch. 41. of May, one thousand seven hundred and eighty-three, and the twentieth day of
 Oct. 1783. October, in the same year, shall not be accounted any part thereof, so as to bar
 ch. 26. such action, entry, or evidence.

4. Annæ, c. 8. SEC. VIII. *PROVIDED also*, That if any person or persons that is or shall
 s. 5. be entitled to any such action of trespass, detinue, action *sur trover*, replevin, ac-
 tions of account, actions of debt, actions of trespass for assault, menace, battery,
 wounding, or imprisonment, be, or shall be, at the time of any such cause of ac-
 tion given or accrued, fallen or come, within the age of twenty-one years, *feme*
covert, *non compos mentis*, imprisoned, beyond the seas, or out of the country, that
 then such person or persons shall be at liberty to bring the same actions, so as they
 take the same within such times as are before limited, after their coming to, or
 being of full age, *discover*, of sane memory, at large, and returned from beyond
 the seas, or from without this country, as by other persons, having no such im-
 pediment, should be done.

28. Geo. 2d. SEC. IX. *PROVIDED always*, That all suits heretofore brought in the name
 ch. 2. s. 7. 8. or names of any person or persons residing in Great-Britain or Ireland, for reco-
 very of any debt due for goods actually sold and delivered here, by his or their
 factor or factors, shall be commenced and prosecuted within the time appointed
 and limited by this act, for bringing the like suits, and not after, notwithstand-
 ing the saving herein before contained, to persons beyond the sea at the time their
 causes of action accrued.

28. Geo. 2d. SEC. X. *PROVIDED nevertheless*, That if any factor shall happen to die
 ch. 2. s. 9. before the expiration of the time in which such suit should have been brought, such
 principal shall be allowed two years from the death of such factor, to commence
 and prosecute his, her, or their action, for any debt due to him, her, or them,
 on account of any contract or dealing with such factor.

4. Annæ, c. 8. SEC. XI. *PROVIDED also*, That if any person or persons, defendant or de-
 s. 6. fendants to any of the aforesaid actions, shall abscond or conceal themselves, or by
 removal out of the country, or the county where he or they do or shall reside,
 when such cause of action accrued, or by any other indirect ways or means, defeat
 or obstruct any person or persons who have title thereto, from bringing and main-
 taining all or any of the aforesaid actions within the respective times limited by
 this act, that then, and in such case, such defendant or defendants are not to be
 admitted to plead this act in bar to any of the aforesaid actions; any thing in this
 act in any wise to the contrary, notwithstanding.

SEC. XII. *PROVIDED also*, That this act shall not extend to any action
 which shall be commenced against any master or commander of a ship, or vessel,
 who shall discharge or cause to be put on shore any sick or disabled sailor belong-
 ing to his ship or vessel, or any servant without taking due care for their mainte-
 nance and cure, or carrying any debtor, servant, or slave out of this common-
 wealth, contrary to law.

22. Geo. 2d. SEC. XIII. AND for the relief of the good people of this commonwealth against
 ch. 5. s. 1. causeless and vexatious suits, and for the better enabling them to recover their
 just rights:

1b. ib. s. 2. SEC. XIV. *BE it enacted*, That, in all actions of assault and battery, and
 slander, commenced and prosecuted in any District Court, if the jury find under
 the sum of five pounds, and in the like actions, commenced and prosecuted in any
 county court, if the jury find under forty shillings, the plaintiff, in either case,
 shall not recover any costs.

SEC. XV. AND in all actions of trespass, and all other personal actions, where the court before whom the trial shall be, shall not be satisfied, and enter upon the record that the freehold, title, or interest of land mentioned in the plaintiff's declaration, was or might have been in question, or that the trespass was wilful or malicious, if the jury find under forty shillings, the plaintiff shall not recover more costs than damages; and if more costs are awarded, the judgment shall be void, and shall be amended, upon a motion, at any time, by the court who awarded the same, and the party injured shall be redressed, as to such costs so wrongfully awarded, in case the same be levied upon him. And where several persons shall be made defendants in any action of trespass, assault, false imprisonment, or ejectment, and upon the trial thereof, any one or more of them shall be acquitted by verdict, every defendant so acquitted, shall have and recover his costs of suit, in like manner as if a verdict had been given against the plaintiff or plaintiffs, and acquitted all the defendants, unless the court before whom such cause shall be tried, shall be satisfied that there was reasonable cause for making such person or persons defendant or defendants to such action, and shall order it otherwise; and in all cases where judgment shall be given for the defendant, he shall recover his costs against the plaintiff, and have execution for the same.

22d. Geo. 2d.
ch. 5. s. 3.

SEC. XVI. PROVIDED always, That nothing herein contained shall be construed to extend to executors, or administrators, in such cases where by the law they are not liable to the payment of costs of suit.

Ib. ib. s. 4.

SEC. XVII. AND in all actions of trespass, *quare clausum fregit*, hereafter to be brought, wherein the defendant or defendants shall disclaim, in his or their plea, to make any title or claim to the land in which the trespass is by the declaration supposed to be done, and the trespass be by negligence, or involuntary, the defendant, or defendants, shall be admitted to plead a disclaimer, and that the trespass was by negligence, or involuntary, and a tender or offer of sufficient amends for such trespass, before the action brought, whereupon, or upon some of them, the plaintiff or plaintiffs shall be enforced to join issue; and if the said issue be found for the defendant or defendants, or the plaintiff or plaintiffs shall be non-suited, the plaintiff or plaintiffs shall be clearly barred from the said action or actions, and all other suits concerning the same.

4. Annæ, c. 8.
s. 3.

SEC. XVIII. IN all actions where the plaintiff shall die after an interlocutory judgment, and before final judgment obtained therein, such action shall not abate if the same might be originally prosecuted or maintained by the executors or administrators of such plaintiff; and if the defendant die after such interlocutory judgment, and before final judgment, such action shall not abate if the same were originally maintainable against the executors or administrators of such defendant, but the plaintiff (or, if he be dead, after such interlocutory judgment, his executors or administrators) shall and may have a *scire facias* against the defendant, if living after such interlocutory judgment (or, if he died after, against his executors or administrators) to shew cause why damages in such action should not be assessed and recovered by the plaintiff or plaintiffs; and if such defendant, or his executors or administrators, shall appear at the return of such writ, and not shew or alledge any matters sufficient to arrest the final judgment, or being returned warned, or upon two writs of *scire facias*, it be returned that the defendant, or his executors or administrators, had nothing whereby to be summoned, or could not be found in the county, shall make default, a writ of enquiry of damages shall be thereupon awarded, which being executed, judgment final shall be given for the said plaintiff, his executors or administrators, prosecuting such writ or writs of *scire facias*, against such defendant, his executors or administrators. And if there be two or more plaintiffs or defendants, and one or more of them should die, if the cause of action should survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the writ or action shall proceed, at the suit of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants: And in all actions, real, personal, and mixed, if either party should die between verdict and judgment, such death shall not be pleaded in abatement, but judgment shall be entered as if both parties were living.

22. Geo. 2d.
ch. 5. s. 5.

SEC. XIX. IN all actions upon any bond, or on any penal sum, for non-performance of covenants or agreements, in any indenture, deed or writing contained, the plaintiff or plaintiffs may assign as many breaches as he or they shall think

Ib. ib. s. 6.

fit; and the jury, upon trial of such action or actions, shall and may assess damages for such of the breaches as the plaintiff shall prove to have been broken, and on such verdict the like judgment shall be entered as heretofore has been usually done in such actions. And where judgment on a demurrer, or by confession, or *nihil dicit*, shall be given for the plaintiff, he may assign as many breaches of the covenants or agreements, as he shall think fit; upon which a jury shall be summoned, to enquire of the truth of every one of those breaches, and to assess the damages the plaintiff shall have sustained thereby, and execution shall issue for so much; and judgment shall remain as a security to the plaintiff, his executors, and administrators, for any other breaches which may afterwards happen, and he or they may have a *scire facias* against the defendant, and assign any other breach, and thereupon damages shall be assessed, and execution issued as aforesaid. And in all actions which shall be brought upon any bond or bonds, for the payment of money, wherein the plaintiff shall recover, judgment shall be entered for the penalty of such bond, to be discharged by payment of the principal and the interest due thereon, and the other costs of suit, and execution shall issue accordingly; or if before judgment the defendant shall bring into court the principal and interest due upon such bond, he shall be discharged, and in that case, judgment shall be entered for the costs only. And in any action of debt on single bill, or in debt, or *scire facias* upon a judgment, or in debt upon bond, if before action brought, the defendant hath paid the principal and interest due by the defeasance or condition, he may plead payment in bar.

22d. Geo. 2d. SEC. XX. ALL powers of attorney for confessing or suffering judgment to
ch. 5. s. 7. pass by default or otherwise, and all general releases of error, made or to be made by any person or persons whatsoever, within this commonwealth, before action brought, shall be and are hereby declared to be absolutely null and void; and if any attorney, or other person practising as an attorney, shall presume to appear under such power for any defendant, in any court of record within this commonwealth, such attorney shall for every such offence, forfeit and pay five hundred pounds current money, to such defendant, for his own use, to be recovered with costs, by action of debt or information, in any court of record, and moreover shall be liable to an action for damages, at the suit of the party grieved.

1786. ch. 64. SEC. XXI. EVERY action at common law, or suit in equity, commenced in the name of a person not residing in Virginia, unless he be employed abroad in the service of the commonwealth, or of the United States of America, shall be dismissed if security be not given with the clerk of the court from whence the process shall issue, or wherein it shall be depending, within sixty days after notice, shall, at any time during such non-residence, have been given to the demandant, or plaintiff, or his attorney, by some person interested, that such security is required for payment of the costs and damages which may be awarded to the tenant or defendant, and also of the fees which will become due to the officers of the court.

22d. Geo. 2d. SEC. XXII. ACTIONS of account shall and may be brought and maintained
ch. 3. s. 7. against the executors or administrators of every guardian, bailiff, and receiver, and also by one joint-tenant, or tenant in common, his executors, or administrators, against the other, as bailiff, for receiving more than comes to his just share or proportion, and against the executor or administrator of such joint-tenant, or tenant in common.

Ib. ib. ch. 1. SEC. XXIII. PROCESS in all real actions, other than writs of right, shall be
s. 21. according to the course of the common law, except that the returns shall be according to the laws of this commonwealth, but all effoins, views, and vouchers, be and are hereby taken away; and after one imparlance, unless the tenant shall plead non-tenure, joint-tenancy, or several tenancy, in abatement, and then, after such plea shall be over-ruled, he shall put himself upon the grand assize, and the mise shall be joined upon the mere right, and be tried at the next court by sixteen jurors, to be summoned, tried, and sworn, as in all other actions. And to remove all delays and groundless pretences in saving the default of the tenant, no excuse shall be admitted but non-summmons; and such excuse being allowed, he may implead, and at the next court, shall either plead in abatement, or put himself upon the grand assize, as aforesaid.

SEC. XXIV. NO judgment after a verdict of twelve men, shall be stayed or reversed for any defect or default in any writ original, or judicial, or for a variance in the writ from the declaration or other proceedings; or for any mispleading, insufficient pleading, discontinuance, misjoining of the issue, or lack of a warrant of attorney, or for the appearance of either party being under the age of twenty one years, by attorney, if the verdict be for him and not to his prejudice; or for not alledging any deed, letters testamentary, or commission of administration, to be brought into court; or for omission of the words "with force and arms," or "against the peace," or for mistake of the christian name, or surname of either party, sum of money, quantity of merchandize, day, month, or year in the declaration, or pleading (the name, sum, quantity, or time being right in any part of the record or proceeding) or for omission of the averment, "this he is ready to verify," or "this he is ready to verify by the record," or for not alledging as appeareth by the record, or for omitting the averment of any matter, without proving which, the jury ought not to have given such a verdict; or for not alledging that the suit or action is within the jurisdiction of the court; or for any informality in entering up the judgment by the clerk; neither shall any judgment entered upon confession, or by *nil dicit*, or *non sum informatus*, be reversed, nor a judgment after enquiry of damages, be stayed or reversed for any omission or fault, which would not have been a good cause to stay or reverse the judgment if there had been a verdict. 1789. ch. 28. s. 1.

SEC. XXV. WHERE a demurrer shall be joined in any action, the court shall not regard any other defect or imperfection in the writ, return, declaration, or pleading, than what shall be specially alledged in the demurrer, as causes thereof, unless something so essential to the action or defence, as that judgment, according to law, and the very right of the cause, cannot be given, shall be omitted. Ib. ib. s. 2.

SEC. XXVI. PRIVATE acts of assembly may be given in evidence without pleading them specially. Ib. ib. s. 3.

SEC. XXVII. JURIES *de medietate lingue* may be directed by the court to be summoned. Ib. ib. s. 4.

SEC. XXVIII. JURORS knowing any thing relative to the point in issue, shall disclose the same in open court. Ib. ib. s. 5.

SEC. XXIX. ANY juror guilty of a contempt to the court, shall be fined by the court any sum not exceeding ten pounds. Ib. ib. s. 6.

SEC. XXX. PAPERS read in evidence, though not under seal, may be carried from the bar by the jury. Ib. ib. s. 7.

SEC. XXXI. NO sheriff shall converse with a juror but by order of court. Ib. ib. s. 8.

SEC. XXXII. INTERPRETERS may be sworn, truly to interpret, when necessary. Ib. ib. s. 9.

SEC. XXXIII. EVERY person desirous of suffering a non-suit on trial, shall be barred therefrom, unless he do so before the jury retire from the bar. Ib. ib. s. 10.

SEC. XXXIV. NOT more than two new trials shall be granted to the same party in the same cause. Ib. ib. s. 11.

1789. ch. 28. SEC. XXXV. AFTER issue joined in an ejectment on the title only, no
s. 12. exception of form or substance shall be taken to the declaration in any court whatsoever.

Ib. ib. s. 13 SEC. XXXVI. ANY instrument to which the person making the same, shall
affix a scroll by way of seal, shall be adjudged and holden to be of the same force
and obligation, as if it were actually sealed.

Ib. ib. s. 14 SEC. XXXVII. IF in detinue the verdict shall omit price or value, the court
may at any time award a writ of enquiry to ascertain the same.

Ib. ib. s. 15 SEC. XXXVIII. IF on an issue concerning several things in one count in de-
tinue, no verdict be found for part of them, it shall not be error, but the plaintiff
shall be barred of his title to the things omitted.

Ib. ib. s. 16 SEC. XXXIX. WHERE there are several counts, one of which is faulty, and
entire damages are given, the verdict shall be good; but the defendant may apply
to the court, to instruct the jury to disregard such faulty count.

1788. ch. 67, SEC. XL. AN execution, writ, or other process appearing to be duly served
• 75. in other respects, shall be deemed good, although it be not directed to any sheriff.

SEC. XLI. ANY judge of the General Court, when the District Court is not
sitting, or any justice of the peace, may take recognizance of special bail in any
action, depending in any court of record within this commonwealth, which shall
be transmitted by the person taking the same before the next succeeding court, to
the clerk of the said court, to be filed with the papers in such action.

SEC. XLII. THE form of which recognizance shall be in the following words,
to wit: " _____ county, to wit: Memorandum, that upon the _____
day of _____, in the year _____ E. F. of the county of _____,
personally appeared before me [one of the judges of the General Court, or a justice
of the county aforesaid, as the case may be] and undertook for C. D. at the suit of
A. B. in an action of _____ now depending in the [naming the court where
the suit is depending] that in case the said C. D. shall be cast in the said suit he the
said C. D. will pay and satisfy the condemnation of the court, or render his body
to prison in execution for the same, or that he the said E. F. will do it for him."

SEC. XLIII. THE person taking such bail as aforesaid, shall, if required, at
the same time, deliver to the person or persons acknowledging the recognizance
aforementioned, a bail-piece, in the words and form following, to wit:

" _____ county, to wit:

C. D. of the parish of _____, in the county aforesaid, is delivered to bail
on a *cepi corpus* unto E. F. of the parish and county aforesaid, at the suit of A. B.
the _____ day of _____, in the year _____.

Ib. ib. s. 79. SEC. XLIV. NOTICE on replevy bonds, and all other legal occasions,
wherein no particular mode is, or shall be, prescribed, shall be good, if given to
the party in person, or delivered in writing to any free white person above the age
of sixteen years, who shall be a member of the family of such person, and shall be in-
formed of the purport of such notice, or left at some public place, at the dwelling-
house, or other known place of residence of such person.

SEC. XLV. A JUDGMENT on confession shall be equal to a release of errors.

SEC. XLVI. FOR removing all doubts concerning the courts, to which this act may apply; *Be it further enacted*, That all things herein contained, shall be the rules of decision and proceeding in all courts whatsoever within this commonwealth.

ALL and every act or acts, and all parts of acts, containing any thing within the purview of this act, shall be, and are hereby repealed.

A BILL for reducing into one, All acts and Parts of Acts concerning Suits brought for Sterling Money; and for ascertaining the Rate of Exchange; and Damages upon protested Bills of Exchange.

SECTION I. **W**HEREAS bills of exchange are accounted in all payments, as ready money, and it is expedient for the advancement of trade and commerce, that the credit of such bills should be preserved by making the same a sufficient security, and expediting the recovery of money thereupon: 1748. ch. 27, s. 1.

SEC. II. *BE it enacted by the General Assembly*, That where any bill of exchange is or shall be drawn for the payment of any sum of money, in which the value is or shall be expressed to be received, and such bill is or shall be protested for non acceptance or non payment, the same shall carry interest from the date thereof, after the rate of ten *per centum per annum*, until the money therein drawn for, shall be fully satisfied and paid; but lest any person having such bill, should for the sake of the said interest, delay negotiating the same, or if after it shall be protested, shall not demand payment of the drawer or endorser thereof,—it is hereby declared that no person shall pay more than eighteen months interest, from the date of any bill to the time it shall be presented protested, to the drawer or endorser, or endorsees thereof. 1b. ib. s. 2.

SEC. III. IT shall be lawful for any person or persons, having a right to demand any sum of money upon a protested bill of exchange, to commence and prosecute an action of debt for principal, interest, and charges of protest, against the drawers or endorsees jointly, or against either of them separately, and judgment shall and may be given for such principal and charges, and interest after the rate of ten per centum per annum as aforesaid to the time of such judgment, and for interest upon the money recovered after the rate of five per centum per annum, until the same shall be fully satisfied. 1b. ib. s. 3.

SEC. IV. ALL bills of exchange which are or shall be protested shall, after the death of the drawer or endorser thereof, be accounted of equal dignity with a judgment, and the executors or administrators of every such drawer or endorser shall be compelled to suffer judgment to pass against them for all debts due upon protested bills of exchange, before any bond, bill, or other debt of equal or inferior dignity, under the penalty of being liable to pay the same out of their own proper goods. 1b. ib. s. 4.

SEC. V. IN all bills of exchange given for any debt due in current money of this commonwealth, or for current money advanced and paid for such bills, the sum in current money that was paid or allowed for the same shall be mentioned and expressed in such bill, and in default thereof, in case such bill shall be protested, and a suit brought for the recovery of the money due thereby, the sum of money expressed in such bill, shall be held and taken as current money, and judgment shall be entered accordingly; and if any person so re- 1755, ch. 2, s. 4.

ceiving or purchasing a bill of exchange, shall express, or cause to be expressed therein, any other than the true sum in current money allowed for the same, every such person so offending, shall forfeit and pay to the person drawing such bill, the whole sum of money for which such bill shall be drawn; to be recovered with costs, by action of debt in any court of record within this commonwealth wherein the same shall be cognizable.

1775. ch. 2.
s. 5.

SEC. VI. AND that people may not be injured for want of due proof of the rate of exchange, so given or allowed for such bills, where the same is not truly expressed therein, such bills being usually negotiated in secret, and with such caution, that it can seldom be detected in the ordinary course of evidence: *Be it further enacted*, That it shall and may be lawful for any drawer of such bill of exchange, to exhibit a bill in chancery, in any court of record in this commonwealth having chancery jurisdiction, against the person to whom such bill shall be payable, to compel him to discover upon his corporal oath, the true difference of exchange, given or allowed for such bill; and in that case if it shall appear that a less rate of exchange was given or allowed, than is expressed, the drawee of such bill shall be discharged from the penalty herein before inflicted for the same, but shall be decreed to pay to the drawer so much money, as the rate of exchange allowed shall be less than the rate of exchange expressed, together with the damages of ten per centum per annum thereon, and costs of suit, to the time of such decree.

SEC. VII. IN any action which hath been or shall be commenced, and is or shall be depending for the recovery of any sterling money, in any court of record within this commonwealth, wherein the plaintiff or plaintiffs shall recover, such court shall have power, and are hereby directed by rule to be entered at the foot of their judgment in such action, to order such judgment to be discharged or levied in current money at such a difference of exchange as they shall think just; any law usage, or custom, to the contrary in any wise, notwithstanding.

SEC. VIII. IF any person shall in any suit hereafter to be brought, declare for sterling money except where the debt or duty is payable in sterling, the plaintiff in every such suit shall be nonsuited; and if any person shall after the passing of this act, take a bond, obligation, or note payable in sterling for any current money debt, and shall bring suit thereon, the court before whom such suit shall be tried, upon proof being made thereof, shall order the judgment to be discharged or levied in current money, at the rate of twenty-five per centum.

ALL and every act or acts, within the purview of this act, shall be, and are hereby repealed.

A BILL directing the Method of Proceeding in Courts of Equity, against absent Debtors, or other absent Defendants; and for settling the Proceedings on Attachments ~~at the common law~~ against absconding Debtors.

1744. ch. 1.

SECTION I. **W**HEREAS creditors have experienced great difficulties in the recovery of debts due from persons residing without the jurisdiction of this commonwealth, but who have effects here sufficient to satisfy and pay such debts: For remedy whereof,

Oct. 1777.
ch. 15. s. 36.

SEC. II. *BE it enacted by the General Assembly*, That if in any suit which hath been or hereafter shall be commenced for relief in equity, in the High Court of Chancery, or in any county or corporation court, against any defendant or defendants, who are out of this country, and others within the same, having in their hands effects of, or otherwise indebted to, such absent defendant or defendants, and the appearances of such absentees be not entered, and security given, to the satisfaction of the court, for performing the decrees, upon affidavit, that such defendant or defen-

dants are out of the country, or that upon enquiry at his, her, or their usual place of abode, he, she, or they, could not be found, so as to be served with process, in all such cases, such court may make any order, and require surety if it shall appear necessary, to restrain the defendants in this country from paying, conveying away, or secreting the debts by them owing to, or the effects in their hands of such absent defendant or defendants, and for that purpose may order such debts to be paid, and effects delivered to the said plaintiff or plaintiffs, upon their giving sufficient security for the return thereof to such persons, and in such manner as the court shall direct.

SEC. III. THE court shall also appoint some day in the succeeding term, for the absent defendant or defendants, to enter his or their appearance to the suit, and give security for performing the decree, a copy of which order shall be forthwith published in the Virginia Gazette, and continued for two months successively, and shall also be published on some Sunday immediately after divine service in such parish, church, or churches, as the court shall direct, and another copy shall be posted at the front door of such court. If such absent defendant or defendants shall not appear and give such security within the time limited, or such further time as the court may allow, for good cause shewn, the court may proceed to take such proof as the complainant shall offer; and if they shall thereupon be satisfied of the justice of the demand, they may order the bill to be taken as confessed, and make such order and decree therein as shall appear just, and may enforce due performance and execution thereof, by such ways and means as hath heretofore been used for enforcing other decrees, requiring the plaintiff or plaintiffs to give security as the court shall approve, for abiding such future order as may be made for restoring the estate or effects to the absent defendant or defendants, upon his or their appearance, and answering the bill; and if the plaintiff or plaintiffs, shall refuse to give, or not be able to procure such security, the effects shall remain under the direction of the court, in the hands of a receiver, or otherwise, for so long time, and shall then be finally disposed of in such manner as to the court shall seem just.

SEC. IV. IF any person or persons who shall be out of the commonwealth at the time any decree is pronounced as aforesaid, shall, within seven years from the passing such decree, return and appear openly, or in case of his or her death, if his or her heir, executor, or administrator, shall, within the said seven years, be and appear openly within this commonwealth, the plaintiff or plaintiffs, their executors, or administrators, shall serve such person or persons, so returning or appearing, with a copy of the decree, within a reasonable time, after such return or appearance shall be known to the plaintiff or plaintiffs, and thereupon such defendant or defendants, or their representatives, may within twelve months after such service, or those defendants not served with a copy, or their representatives may, within seven years after the decree pronounced, appear in court, and petition to have the cause reheard, and upon their paying down, or giving security for payment of such costs, as the court shall think reasonable, they shall be admitted to answer the bill, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree, and execution had, as if there had been no former decree in the cause; but if the several defendants, or their representatives, upon whom the decree shall be so served, shall not within twelve months after such service, and the other defendants, or their representatives upon whom no such service is made, shall not within seven years from the time of the decree pronounced, appear and petition to have the cause reheard as aforesaid, and pay or secure to be paid such costs as the court may think reasonable, all and every decree to be made in pursuance of this act, against any defendant or defendants so failing, shall stand absolutely confirmed against him, her, or them, by virtue of any act or conveyance, done or made, subsequent to the commencement of the suit, and at the end of such term the court may make such further order for quieting the plaintiff or plaintiffs in any such suits, in their possession and title to the estate and effects so sequestered or made liable, as to them shall seem reasonable.

Oa. 1777.
ch. 15, s. 39.

1744, ch. 1,
s. 7.

SEC. V. AND whereas it hath been doubted, whether the power of the Court of Chancery to proceed against absent debtors, can be extended to other absent defendants;

Oa. 1787.
ch. 9, s. 2.

SEC. VI. BE it enacted, That in all cases whatever, where a suit is or shall be depending in the High Court of Chancery or other court of equity, concerning any matter or thing whatever against any absent defendant or defendants, the court

Ord. 1787.
ch. 9. s. 3.

may, on satisfactory proof to them made, that such defendant or defendants is or are out of this commonwealth; or that upon enquiry at his, her, or their usual place of abode, he, she, or they could not be found, make any order similar to that which is directed to be made in case of absent debtors, adapting the same to the nature of the case, a copy of which order shall be published in like manner as is directed in case of absent debtors, and thereupon if the appearance of such absent defendant or defendants be not entered, the complainant may proceed in like manner as if an appearance had been entered. *Provided always*, that where such decree shall be made, such absent defendant or defendants may at any time within seven years, be permitted to file his, her, or their answer, and to shew cause why the said decree should be set aside; upon which the court may make such decree as shall appear to be equitable.

1748. ch. 4.
s. 6.

SEC. VII. AND whereas many persons, wishing to avoid the payment of their just debts, frequently abscond or conceal themselves, so that the ordinary process of law cannot be served on them, and remove or secrete their effects, whereby their creditors are either exposed to the loss of their debts altogether, or greatly delayed in the recovery of the same: In remedy whereof,

SEC. VIII. *BE it enacted*, That if any person shall make complaint to any justice of the peace, that his debtor is removing out of the county privately, or absconds, or conceals himself, so that the ordinary process of law cannot be served on him, such justice shall grant an attachment against the estate of such debtor, or so much thereof as shall be sufficient to satisfy the debt and costs of such complainant; which attachment, where the debt or demand shall exceed twenty-five shillings current money, or two hundred pounds of tobacco, shall be returnable to the next county court, and directed to, and served by, the sheriff, or his under-sheriff, unless in case where the sheriff is a party interested, and then the same shall be directed to, and served by, a coroner; and it shall be lawful for such sheriff or officer, to serve and levy the same upon the slaves, goods, and chattels, of the party absconding, wherever the same shall be found; or in the hands of any person or persons, indebted to, or having any effects of, the party absconding, and to summon such garnishee, or garnishees, to appear at the next court to be held for the said county, there to answer upon oath, what he or she is indebted unto such party, and what effects of such party, he or she hath in his or her hands, or had at the time of serving such attachment; which being returned executed, the court may thereupon compel such garnishee to appear and answer as aforesaid.

SEC. IX. *PROVIDED always*, That every justice of peace, before granting such attachment, shall take bond and security of the party for whom the same shall be issued, in double the sum to be attached, payable to the defendant, for satisfying and paying all costs which shall be awarded to the said defendant, in case the plaintiff suing out the attachment therein mentioned, shall be cast in his suit, and also all damages which shall be recovered against the said plaintiff for his suing out such attachment; which bond shall be by the same justice returned to the court to which the attachment is returnable, and the party entitled to such costs or damages may thereupon bring suit and recover; and every attachment issued without such bond taken, or where no bond shall be returned is hereby declared illegal and void, and shall be dismissed.

SEC. X. *PROVIDED also*, That all attachments shall be repleviable by appearance, and putting in good bail, if by the court ruled so to do, or by giving bond with good security to the sheriff or other officer serving the same; which bond the sheriff or other officer, is hereby empowered and required to take, to appear at the court to which such attachment shall be returnable, and to abide by and perform the order and judgment of such court.

SEC. XI. *AND be it further enacted*, That upon the defendant or defendants replevying any attached effects by giving bond and security to the sheriff or other officer as aforesaid, the sheriff shall return the name of the security by him so taken; and if such security shall be adjudged insufficient by the court, and if the defendant shall fail to appear and give special bail, if thereunto ruled by the court, such sheriff and security shall be subject to the same judgment and recovery and have the

same liberty of defence and relief, as if such security had been taken upon the execution of *mesne process*.

SEC. XII. *AND be it further enacted*, That it shall be lawful for any creditor where his debt doth not exceed five pounds current money, or one thousand pounds of tobacco, to go before any justice of the peace of the county where his debtor resides, and make oath how much is justly due to him, and that he hath grounds to suspect and verily believes that such debtor intends to remove his effects; and thereupon such justice shall issue an attachment against the estate of such debtor returnable to his next county court, directed to all sheriffs and constables within the commonwealth; and by virtue thereof it shall be lawful, as well for the sheriff or any constable of the county where such attachment shall be obtained, as for the sheriff or any constable of other counties, to pursue and seize such effects, and to make return of such attachment to the court where the same shall be returnable, and thereupon such proceedings shall be had without a petition, as in other cases of attachment.

SEC. XIII. *AND* upon complaint made to a justice of peace, that any person indebted to the complainant in any less sum than twenty-five shillings current money, or two hundred pounds of tobacco, is removing out of the county privately, or so absconds or conceals himself that a warrant cannot be served upon him, such justice shall, taking bond and security as in this act is before directed, grant an attachment against the estate of such debtor, or so much thereof as shall be of value sufficient to satisfy the debt and costs of the party praying such attachment, directed to the sheriff or any constable of his county, and returnable before himself or any other justice thereof, who shall and may proceed thereupon as upon an attachment returnable to the county court.

SEC. XIV. *AND* if any attachment returnable to the county court or before a justice of peace shall be returned executed, and the goods or effects attached, shall not be replevied as this act directs, the plaintiff shall be entitled to a judgment for his whole debt, and may take execution thereupon; and all goods and effects attached and not replevied as aforesaid, shall be sold and disposed of for and towards satisfaction of the plaintiff's judgment in the same manner as goods taken in execution upon a writ of *fiere facias*. And where any attachment shall be returned served in the hands of any garnishee, it will be lawful upon his or her appearance and examination in the manner by this act before directed, to enter up judgment and award execution against every such garnishee and garnishees for all sums of money due from him, her, or them, to the person absconding, or in his, her, or their custody or possession, for the use of such person, or so much thereof as shall be of the value sufficient to satisfy the debt and costs of the complainant; and all goods and effects whatsoever in the hands of any garnishee or garnishees, belonging to such absconding person, shall be liable to satisfy such judgment.

SEC. XV. *AND* whereas attachments are frequently served, upon horses, cattle, hogs, sheep, and other live stock, which the officers serving the same are obliged to return in their custody for a length of time, before an order of court can be obtained for the sale of such live stock, or for want of buyers, during which time such stock frequently perish for want of proper food, or are greatly impoverished, to the great detriment both of the creditor and his debtor; for remedy whereof: *Be it enacted*, That when any sheriff or other officer shall serve an attachment on horses, or other live stock, and the same shall not be immediately replevied or restored to the debtor, it shall and may be lawful for such officers, and they are hereby required to provide sufficient sustenance for the support of such live stock, until such stock shall be sold or otherwise legally discharged from such attachment; and upon the trial of any attachment, the court before whom such attachment shall be tried, may and shall upon the motion of the officer serving the same, settle and adjust what such officer shall be allowed for his expenses incurred by supporting such stock, to be taxed in the bill of costs against the party against whom such judgment shall be given on such attachment; and the same shall be retained by the officer out of the money arising from the sale of such stock; and the said officer shall and may retain the expenses of supporting such stock, taken as aforesaid, out of the money arising from the sale, to be settled in manner aforesaid. And where the plaintiff in any attachment shall be cast, the expenses aforesaid shall be taxed in the bill of costs against such plaintiff, for which the defendant may take execution with the other costs.

1769, Revised
Code pa. 22.

ALL and every act or acts, and part of acts, within the purview of this act, shall be, and the same are hereby repealed.

A BILL declaring the Law concerning the Escape of Debtors, and other Prisoners.

21. Geo. 2d.
ch. 6. s. 13.

SECTION I. **F**OR the more effectual retaking and securing persons who escape out of prison; *Be it enacted*, That if any person committed, rendered or charged in custody, in execution, or upon *mesne process*, to any county prison, or to the gaol of any district, shall thence escape, it shall and may be lawful for any justice of the peace in the county where such prisoner was in custody, upon oath of such escape, before him made by the sheriff, under sheriff, gaoler, or other credible person, to grant unto any one demanding the same, one or more warrants, under his hand and seal, directed to all sheriffs, mayors, bailiffs, and constables within this commonwealth, reciting the cause of such prisoner's commitment, and time of his or her escape, and commanding them, and every of them, in their respective counties, cities, towns, and precincts, to seize and retake such prisoner so escaped or going at large, and being so retaken, forthwith to convey and commit to the prison where debtors are usually kept in the county where such retaking shall be, there to be kept in safe custody, until he or she be thence discharged by due course of law; which warrant the sheriff is hereby required to obey, and to receive the prisoner into his safe custody, and to give a note to the person or persons delivering him or her, testifying his receipt of such prisoner, and shall also make return of the execution of such warrant to the court of that county or district from whence the prisoner escaped; and if he or she was there in custody charged in execution, then the sheriff shall safely keep him or her without bail or mainprize, until he or she shall make full payment and satisfaction to the plaintiff or plaintiffs, creditor or creditors, in whose name such execution was sued out, or until the judgment or judgments obtained against him or her, shall be reversed or discharged by due course of law. And if such prisoner shall have been in custody upon *mesne process* in any action of debt, or upon the case, the sheriff to whom he or she shall be so recommitted, shall in like manner, keep such prisoner in his safe custody, and make return of the execution of the warrant by which he or she was retaken, to the court of that county or district wherein he or she was first arrested; and thereupon it shall be lawful for the said court, upon the plaintiff's or creditor's filing his declaration, to proceed and give judgment thereon, according as the truth of the case shall appear to them, in the same manner as if the defendant had appeared in the said court, and refused to plead, unless such defendant shall cause special bail to be entered in the said court, and shall immediately plead to issue, and then, upon certificate under the hand of the clerk of the said court, that such bail is given, delivered to the sheriff in whose custody such defendant then shall be, it shall be lawful for the said sheriff to set at large such prisoner, and not otherwise; but where any prisoner escaped, and retaken upon such warrant as aforesaid, shall thereafter be charged with treason, felony, or other crime or cause, in behalf of the commonwealth, for which he or she ought to be tried in the District Court, and shall be for such cause removed to the gaol of the District Court, every such prisoner shall be charged in the said District gaol, with all the causes wherewith he or she stood charged in the prison from whence he or she was so removed, until he or she be thence delivered by due course of law, in like manner as is herein before directed.

5. Geo. 3d.
ch. 6. s. 1.

SEC. II. **W**HEN any person in execution, who shall have obtained the liberty of the prison rules, by giving bond and security for the same, shall hereafter escape and go out of the same, the sheriff of the county where such prisoner was in custody, shall, and he is hereby required, immediately to apply to a justice of the peace for an escape warrant to retake such prisoner, according to the directions of this act; and such sheriff shall, and he is hereby required, immediately to give notice thereof to the creditor at whose suit he was in custody, or to his attorney or agent, and shall assign over and deliver to such creditor, or his attorney, the bond by him taken for the liberty of the prison rules, who shall be obliged to receive the same, and thereupon it shall and may be lawful for such creditor, or his attorney, to pursue the method directed by this act for retaking such debtor upon the escape warrant aforesaid; and if he be re-taken thereupon, and committed to gaol, the securities for his keeping the prison rules shall be discharged from their bond, or such creditor, or his attorney,

shall or may at their election, commence and prosecute an action or suit at law against the security or securities named in such bond, for the recovery of his debt, notwithstanding he shall have applied for and obtained an escape warrant against his debtor, as aforesaid, if such debtor is not re-taken and committed to gaol thereupon. And the sheriff shall not be liable or answerable for the payment of the debt for which such prisoner was in custody, unless the security or securities named in the bond by him taken of such prisoner, for the liberty of the prison rules, shall afterwards be found to have been insufficient for the payment of such debt at the time the same was taken.

SEC. III. AND whereas the situation of most prisons in this commonwealth hath given opportunities to evil disposed persons to break open the same, and turn out debtors, and others in custody, to the hindrance of justice, prejudice of creditors, and ruin of sheriffs, who have been compelled to pay the debts with which such prisoner stood charged: For remedy thereof, 22d. Geo. 2d. ch. 6. s. 12.

SEC. IV. BE it further enacted, That no judgment shall be entered against any sheriff, or other officer in any suit brought upon the escape of any debtor in his or their custody, unless the jury who shall try the issue shall expressly find that such debtor or prisoner did escape with the consent or through the negligence of such sheriff or his officer or officers, or that such prisoner might have been re-taken, and that the sheriff and his officers neglected to make immediate pursuit.

SEC. V. PROVIDED always, That where any sheriff shall have taken the body of any debtor in execution, and shall wilfully and negligently suffer such debtor to escape, and such sheriff, or the person suing out such execution, shall die before a recovery can be had against such sheriff for such escape, the person suing out such execution, his executors or administrators, shall and may have and maintain an action of debt against such sheriff, his executors or administrators, for the recovery of all such sums of money, and tobacco, as are mentioned in the said execution, and damages for detaining the same; any law, custom or usage to the contrary, notwithstanding. 27th. Geo. 2d. ch. 1. s. 37.

SEC. VI. IF any private person have any prisoner in his keeping arrested for suspicion of felony, treason or murder, and the person that is so arrested, escape by negligent keeping, before that he be brought to the jail, then the person from whom such prisoner so escaped, shall be liable to a fine on being found guilty on an indictment in the court of that district in which such escape was made. 1789. ch. 30. s. 15.

ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

A BILL for reducing into one, the several Acts concerning Executions, and for the relief of insolvent Debtors.

SECTION I. BE it enacted by the General Assembly, That all persons recovering any debt, damages, or costs, by the judgment of any court of record within this commonwealth, may, at their election, prosecute writs of *fieri facias*, *elegit*, and *capias ad satisfaciendum*, within the year, for the taking the goods, lands, or body of the person or persons against whom such judgment is obtained, in manner following: All such writs shall run in the name of the commonwealth, and bear *teste* by the clerks of the said courts respectively, shall be returnable to the first day of the next succeeding court, so that there be always at least fifteen days between the *teste* and return of each of the said writs; *Provided*, that executions may be issued from the General court returnable to the second term of the said court following the day of issuing the same; and that executions shall issue to any sheriff or coroner from the clerks of the District Courts, and be returnable to the first day thereof: *And provided also*, that if the plaintiff in any county or other inferior court, shall desire an execution to issue, returnable at a further day, 1748. ch. 8.

the clerk shall issue the same accordingly, so as the day of such return be upon a court day within ninety days next after the *teste* thereof; and that the forms of the said several writs shall be as follows, *mutatis, mutandis*, to wit,

" A FIERI FACIAS in DEBT."

" The commonwealth of Virginia, to the sheriff of ——— county, greeting :
 " We command you that of the goods and chattels of A. B. late in your baili-
 " wick, you cause to be made the sum of ———, which C. D. lately in
 " our ——— court hath recovered against him for deb; also the sum of ———,
 " which to the said C. D. in the same court were adjudged for his damages, as well
 " by reason of detaining the said debt, as for his costs in that suit expended,
 " whereof he is convicted, as appears to us of record, and that you have the said
 " ——— before the judges or justices (as the case may be) of our said court,
 " the ——— day of ———, to render to the said C. D. of the debt and damages
 " aforesaid. And have then there this writ. Witness, &c."

The same in case upon a promise:

As before unto ——— " for his damages, which he sustained, as well by reason
 " of his not performing a certain promise and assumption to the said C. D. by the
 " said A. B. lately made, as for his costs by him about his suit in this behalf expend-
 " ed, &c"

In TRESPASS.

As before unto ——— " for damages, as well by occasion of a certain
 " trespass by the said A. B. to the said C. D. offered, as for his costs, &c."

If for the defendant, say—

" For his costs about his defence in a certain action at the suit of the said, &c."

In COVENANT.

As before unto ——— " For damages, &c. by occasion of a breach of a
 " certain covenant between the said A. B. and C. D. lately made, &c."

The form of a Writ of "ELEGIT."

13 Ed. 1. ch. 18. " THE commonwealth, &c. greeting: Whereas, A. B. at our ———
 " court, &c. before our judges (or justices) held, hath recovered against C. D. the
 " sum of ———, which to the said plaintiff was adjudged for a certain
 " debt—or damages "—as before—" and the said A. B. hath chosen to have de-
 " livered to him all the goods and chattels of the said C. D. saving only the oxen
 " and beasts of his plough, and also a moiety of all his lands and tenements in your
 " bailiwick, to have and to hold the goods and chattels aforesaid as his own proper
 " goods, and the said moiety as his freehold to him and his assigns, until he shall
 " have levied thereof the debt and damages aforesaid: Therefore we command you
 " that you cause to be delivered, all the goods and chattels of the said C. D. saving
 " the oxen and beasts of his plough, and also a moiety of all his lands and tenements
 " in your bailiwick, whereof he at the day of obtaining the said judgment was
 " seized, or at any time afterwards, by reasonable price and extent; to have and to
 " hold the said goods and chattels, to him the said A. B. as his own proper goods
 " and chattels, and the said moiety as his freehold to him and his assigns, until he
 " shall have levied thereof the debt and damages aforesaid, and that you certify our
 " said judges (or justices) under your own seal, and the seals of those by whose
 " oath you shall make this extent and appraisement, how you execute this writ,
 " the ——— day of ———. And have then there this writ, &c."

A CAPIAS AD SATISFACIENDUM.

" THE commonwealth &c. greeting: We command you that you take A. B.
 " late of ———, if he be found within your bailiwick, and him safely keep, so that
 " you have his body before our judges or (justices) of our ——— court, &c."
 " ——— day of ———, to satisfy C. D. the sum of ———,
 " which the said C. D. hath recovered against him for debt, also &c. "as before."

In CASE, TRESPASS, or COVENANT, as in the FIERI FACIAS.

WHICH said writs so issued, shall be executed by the sheriff or other officer to
 whom the same shall be directed, and shall be returned according to the respective
 forms hereafter mentioned, to wit.

The Return of a FIERI FACIAS.

"BY virtue of this writ to me directed, I have caused to be made the within mentioned sum of _____, of the goods and chattels of the within named A. B. which said sum of _____, before the judges (or justices) within mentioned, at the day and place within contained, I have ready, as that writ requires."

Or,

"THE within named A. B. hath no goods or chattels within my bailiwick, whereof I can make the sum within mentioned."

Or,

"BY virtue, &c. I have caused to be made of the goods and chattels of the within named A. B. the sum of _____, which I have ready to render to the within named C. D. in part of the debt and damages within mentioned: and I do further certify, that the said A. B. hath no more goods and chattels, within my bailiwick, whereof at present I can make the residue of the said debt and damages, as by the said writ is required."

Return of a writ of ELEGIT.

"INQUISITION indented, taken at _____, in the county aforesaid, the _____ day of _____, in the year of our Lord _____, before me, E. F. sheriff in the county aforesaid: by virtue of a writ to me directed, and to this inquisition annexed, and by the oath of A. B. C. &c. good and lawful men of my bailiwick, who being charged and sworn, upon their oath do say, that A. B. in the said writ to this inquisition annexed, named, the day of the caption of this inquisition, was possessed of the goods and chattels following, as of his own proper goods, to wit: _____ of the price of _____ which I the said sheriff, have caused to be delivered to the same C. D. to hold to him as his own proper goods and chattels, in part of satisfaction of his debt and damages aforesaid, in the said writ mentioned; and further the said jurors upon their oath do say, that the said A. B. at the time of rendering the judgment aforesaid, was seized in his *demesne*, as of fee, of and in [here name the houses and lands] with the appurtenances of the annual value in all the issues beyond *repries* of _____ pounds, _____ acres of which, or thereabouts, are a true and equal moiety of all and singular the lands, tenements, and hereditaments whatsoever, in the county aforesaid, of the said A. B.; which said moiety, I the said sheriff, the day aforesaid, to C. D. in the said writ named, at a reasonable extent, have delivered to hold to him and his assigns, as his freehold, according to the form of the act in that case made and provided, until he shall have levied the residue of the debt and damages aforesaid, as the writ aforesaid requires; and further the said jurors upon their oath do say, that the said A. B. at the time of giving the judgment aforesaid, had not, nor at the day of taking this inquisition, hath any other or more goods and chattels, lands or tenements in the county aforesaid, to the knowledge of the jurors aforesaid. In testimony whereof, as well I the said sheriff, as the jurors aforesaid, to this inquisition have severally put our seals, the day, year, and place above-mentioned."

Return of a CAPIAS AD SATISFACIENDUM.

"BY virtue of this writ to me directed, I have taken the within named A. B. whose body before the judges (or justices) within named, at the day and place within contained, I have ready, to satisfy C. D. of the debt and damages within mentioned, as within to me is commanded."

Or,

"THE within named A. B. is not found in my bailiwick."

SEC. II. WHEN any writ of execution shall issue, and the party at whose suit the same is issued, shall afterwards desire to take out another writ of execution at his own proper costs and charges, the clerk may issue the same, if the first writ be not returned and executed; and where upon a *capias ad satisfaciendum* the sheriff shall return that the defendant is not found, the clerk may issue a *feri facias*; and if upon a *feri facias*, he shall return that the party hath no goods, or that only part of the debt is levied, in such case it shall be lawful to issue a *capias ad satisfaciendum*.

sum upon the same judgment; and where part of a debt shall be levied upon an *elegit*, a new *elegit* shall issue for the residue; and where *nihil* shall be returned upon any writ of *elegit*, a *capias ad satisfaciendum* or *feri facias* may issue, and so *vice versa*, and where one judgment is obtained against several defendants, execution thereon shall issue as if it were against one defendant and not otherwise.

SEC. III. IF any person being in prison charged in execution, shall happen to die in execution, the party or parties at whose suit, or to whom, such person shall stand charged in execution for any debt or damage recovered, his or their executors or administrators, may after the death of the person so dying in execution, lawfully sue forth and have new execution against the lands and tenements, goods and chattels, or any of them, of the person so deceased.

SEC. IV. *PROVIDED* always, That this act shall not extend to give liberty to any person or persons, their executors or administrators, at whose suit any such party shall be and die in execution, to have or take any new execution against any the lands, tenements, or hereditaments of such party dying in execution, which shall at any time after the said judgment or judgments be by him sold, *bona fide*, for the payment of any of his creditors at whose suit he shall be in execution, and the money paid or secured to be paid to any such creditors with their privity in discharge of his or their debts, or some part thereof.

1785. ch. 55. SEC. V. IF any person taken in execution, be delivered by privilege of either house of assembly, so soon as such privilege ceaseth he shall return himself a prisoner in execution, or be liable to an escape.

1748. ch. 3,
s. 20. SEC. VI. WHERE judgment shall be obtained in any county court or other inferior court of record within this commonwealth, for any debt or damages, and the person against whom such judgment shall be obtained, shall remove himself and his effects, or shall reside out of the limits of the jurisdiction of such court, it shall be lawful for the clerk of the court where judgment was given, at the request of the party for whom the same was rendered, to issue any writ of *feri facias*, or *capias ad satisfaciendum* in the form and under the *teste* herein before prescribed, and to direct the same to the sheriff of any county within this commonwealth, where the defendant or debtor, or his goods shall be found, which said sheriff or other officer to whom the same shall be directed, is hereby empowered and required to serve and execute the same, and shall make return thereof to the court where the judgment was given, in the manner herein before prescribed and directed.

SEC. VII. NO writ of *feri facias* or other writ of execution, shall bind the property of the goods against which such writ is sued forth, but from the time that such writ shall be delivered to the sheriff, under sheriff, coroner, or other officer to be executed; and for the better manifestation of the said time, such sheriff, coroner, or other officer, his deputy or agent, shall, upon the receipt of any such writ, without fee for doing the same, endorse upon the back thereof the day of the month and year, when he received the same; and if two or more writs shall be delivered against the same person, in the same day, that which was first delivered shall be first satisfied.

1787. ch. 7. SEC. VIII. ON all executions hereafter issued, the sheriff or other officer, having published notice of the time and place of sale at the door of the courthouse of his county, on some court day, and at some public place near the residence of the debtor, at least ten days before such sale, shall proceed to sell by auction, the goods or chattels so taken, or so much thereof as shall be sufficient to satisfy the judgment or decree, for the best price that can be got for the same.

1769 ch. 30.
1788. ch. 77. SEC. IX. *PROVIDED* always, That if the owner of such goods and chattels shall give sufficient security to such sheriff or officer, to have the same goods and chattels forth-coming at the day of sale, it shall be lawful for the sheriff or officer, to take a bond from such debtor, and securities, payable to the creditor, re-

citing the service of such execution, and the amount of the money or tobacco due thereon, and with condition to have the goods or chattels forth-coming at the day of sale appointed by such sheriff or officer, and shall thereupon suffer the said goods and chattels to remain in the possession, and at the risk of the debtor until that time; and if the owner of such goods and chattels, shall fail to deliver up the same according to the condition of the bond, or pay the money or tobacco mentioned in the execution, such sheriff or officer shall return the bond to the office of the clerk of the court from whence the execution issued, to be there safely kept, and to have the force of a judgment; and thereupon it shall be lawful for the court, where such bond shall be lodged, upon motion of the person to whom the same is payable, his executors or administrators, to award execution for the money and tobacco therein mentioned, with interest thereon from the date of the bond till payment, and costs, provided the obligors, their executors or administrators, or such of them against whom execution is awarded, have ten days previous notice* of such motion; and upon such execution, or on any execution awarded on any bond which shall hereafter be given to replevy an estate taken by a former execution, the sheriff or officer shall not take any security, either to have the goods forth-coming at the day of sale, or for the payment of the money at a future day; but shall levy the same immediately, and keep in his hands the goods and chattels taken thereupon, until he shall have sold sufficient thereof to raise the money and tobacco mentioned in the execution, or the same be otherwise satisfied.

SEC. X. AND for the better direction of such officer, the clerk shall endorse upon any such execution, "that no security of any kind is to be taken."

SEC. XI. IF any sheriff or other officer, shall fail to deliver or return any bond taken for the forth-coming of property, by virtue of this act, within sixty days after the date thereof, to the office of the clerk of the court whence such execution issued, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner as is directed by law against a sheriff or coroner failing to return an execution. 1791. ch. 3. s. 4.

SEC. XII. WHEN execution shall issue against the estate of any sheriff, or under sheriff, or their securities, upon a judgment obtained against such sheriff, or under sheriff, and securities, for money or tobacco received by such sheriff, or under sheriff, by virtue of any execution or process, levied or executed by him or them, or for any money collected or received by them in any manner as sheriffs, no security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forthcoming at the day of sale, shall be taken or received; but the officer taking such estate in execution, shall proceed immediately to the sale thereof, notwithstanding such security shall be tendered: And for the better direction of such officer, the clerk issuing such execution shall endorse thereon, "that no security of any kind is to be taken."—In like manner, on all executions which may issue against any collector of the poor rates, his heirs, executors, or administrators, or against any overseer or overseers of the poor, his or their heirs, executors, or administrators, on any judgment obtained, or which hereafter may be obtained, against him or them for or on account of any money or tobacco, which have or may hereafter come to his or their hands, levied for the support of the poor, the clerk shall endorse, "no security to be taken." 10th. Geo. 3. ch. 3. s. 6. 1791. ch. 20. s. 6.

SEC. XIII. NO sheriff or other officer to whom any writ of *feri facias* shall be directed, shall take in execution any slave or slaves, unless the debt and costs mentioned in such *feri facias*, shall amount to the sum of ten pounds or two thousand pounds of tobacco, provided there be shewn to such sheriff or officer, by the defendant or any other person, sufficient other goods or chattels of such defendant within the bailiwick of such sheriff or officer, upon which he may levy the debt and costs mentioned in such *feri facias*. 1748. ch. 8. s. 16.

SEC. XIV. WHERE any slave or slaves shall be taken in execution and sold, the names of such slaves shall be certified on the back of such execution, and re- 1764. ch. 6. s. 7.

* For what shall be deemed legal notice, see District Law, section

turned to and recorded among the records of the court, where such execution shall issue.

1748. ch. 8. SEC. XV. NO execution shall be levied nor distress made for tobacco, between
s. 17. the last day of September, and the last day of December, in every year.

1748. ch. 8, SEC. XVI. IF the goods taken by any sheriff or other officer, or any part
s. 9. thereof shall remain in his hands unsold, he shall make return accordingly, and thereupon the clerk of the court from whence the execution issued, shall and may, and he is hereby required to issue a *venditioni exponas* to such sheriff or other officer directed, whereupon the like proceedings shall be had, as might and ought to have been had on the first execution; which writ of *venditioni exponas* shall be in the form following:

"THE commonwealth, &c. greeting: We command you, that you expose to sale, those goods and chattels of A. B. to the value of ———, which according to our command you have taken into your hands, and which you detain for want of buyers, as you have certified to our judges (or justices) of our ——— court, to satisfy C. D. the sum of ———, whereof in our said court he hath recovered execution against the said A. B. by virtue of a judgment in the said court; and that you have, &c.

1772. ch. 6. SEC. XVII. AND whereas the sheriffs and other officers of the several coun-
s. 7. ties within this commonwealth, do frequently serve writs of execution upon horses, cattle, hogs, sheep, and other live stock, which such officers are obliged to retain in their custody for a length of time for want of buyers, during which time, such stock frequently perish for want of proper food, or are greatly impoverished, to the great detriment both of the creditor, and his debtor: For remedy whereof, *Be it enacted*, That when any sheriff or other officer, shall serve any writ of execution on horses or other live stock, and the same shall not be immediately replevied or restored to the debtor, it shall and may be lawful for such officers, and they are hereby required to provide sufficient sustenance for the support of such live stock, until such stock shall be sold, or otherwise legally discharged from such execution; and upon the return of any execution, the court may, and shall, upon the motion of the officer serving the same, settle and adjust what such officer shall be allowed for his expenses incurred by supporting such stock; and the said officer shall and may be allowed to retain the same out of the money arising from the sale of the said stock.

Ord. 1787. SEC. XVIII. IF the goods or other estate taken in execution, cannot be sold for
ch. 7. s. 3. three-fourths of their value at the least, in the opinion of the persons hereafter directed to be appointed for that purpose, it shall and may be lawful for the debtor or debtors, or any of them, to enter into bond with sufficient securities, to be approved by the persons aforesaid, to pay the money or tobacco for which execution was so served, and all costs, with lawful interest for the same, to such creditor within twelve months: and on such bond being given, the sheriff or other officer shall restore to such debtor the goods or estate so taken; and when no such bond and security shall be offered by the debtor, or any person for him, and the goods or other estate taken in execution, cannot in the opinion of the persons aforesaid, be sold for three-fourths of their value at the least, the sheriff or other officer shall set up and sell the same for money and tobacco (as the case may be) to be paid at the end of twelve months; and shall take bond of the buyer or buyers, with one or more sufficient securities, to pay the same accordingly, with interest, to such creditor.

SEC. XIX. ALL and every bond or bonds, so taken in pursuance of this act, shall mention that the same was or were entered into, for goods or other estate taken in execution, and returned to the debtor, or sold to the obligor (as the case may be) and shall have the force of judgments, and shall also be assignable; and such sheriff or other officer taking such bond, shall deliver the same to the creditor, or his attorney, or return it to the office of the clerk of the court from whence such execution issued, there to be safely kept, until demanded by the

creditor or his attorney; and if the money or tobacco shall not be paid according to the condition of any such bond, it shall be lawful for the creditor or his assignee, to lodge the same, with an affidavit that the money or tobacco for which such bond was given, or part thereof, is still due, with the clerk of the court from whence the execution issued, and such clerk shall and may thereupon issue an execution for so much as shall appear from the said bond and affidavit to be still due; and upon such execution, the sheriff or other officer shall not take any security for the payment of the money or tobacco at a future day, but shall levy the same immediately, and sell the property on which the execution shall be so levied, for the best price that can be had for the same.

SEC. XX. IF any obligor or obligors, obligee or obligees, in any twelve months replevy bond taken on any execution under this act, or assignee of any such obligee (as the case may be) shall die before such bond shall be fully paid, it shall and may be lawful for the clerk of any court within this commonwealth, upon the application and oath of the executors or administrators of any such obligee or assignee, that the amount of such bond is not discharged, to issue a writ of execution against every such obligor or obligors, his or their executors or administrators, and to endorse thereon that "no security is to be taken;" any law to the contrary notwithstanding.

SEC. XXI. *PROVIDED*, That if on return of such execution the debtor can prove the payment of the money for which such execution was levied, either to the assignee or original obligee before notice of such assignment (as the case may be) it shall and may be lawful for the court to quash such execution, or give such other judgment therein as to them shall seem right; and the person in whose name such execution issued, shall moreover be liable to the action of such debtor for damages. And for the better direction of such sheriff or other officer, the clerk shall endorse upon the back of such execution that "no security shall be taken." *Provided*, That nothing in this act contained, shall be construed to extend the right of giving security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forthcoming at the day of sale, to the defendant or defendants, in any judgment or execution not exceeding the sum of twenty-five shillings; or to any execution against a sheriff, coroner, public collector, or other person legally authorized to receive any part of the public revenue, or their securities; or to any execution against any such officer or his securities for money received by him under an execution or other process; or for any money or tobacco collected or received by him or them in any manner as sheriffs or public collectors; nor to attorneys receiving the money of their clients; nor to securities under an act, intituled, "An act to empower securities to recover damages in a summary way."

SEC. XXII. WHERESOEVER on a sale under execution upon twelve months credit, the amount of such sale shall exceed the principal, interest, and costs, the sheriff or coroner (as the case may be) shall take a separate bond, with sufficient security from the buyer or buyers, for the payment of such excess or surplus to the debtor with legal interest, at the end of twelve months from the date thereof, and it shall be expressed in the said bond, that it was given for a surplus or excess, as aforesaid, and the said sheriff or coroner (as the case may be) shall deliver every bond so taken to the debtor, his agent, attorney, or other legal representative, or return it to the clerk's office, and it shall have the force of a judgment, be assignable, and in all things concerning the same, be proceeded on in like manner as is above prescribed in case of bonds given to a creditor. And if the sheriff or coroner (as the case may be) shall fail to deliver or return as aforesaid, any bond so taken, within thirty days from the date thereof, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner, as is directed by law against a sheriff or coroner failing to return an execution.

SEC. XXIII. THE court of every county and corporation within this commonwealth, shall appoint nine persons to act as judges of the value of property, and the sufficiency of securities that may be offered under this act; and no sale under execution shall be made but in the presence of at least three of the said persons, except in the cases herein-after mentioned: *Provided always*, That in any case

where the creditor, his agent or attorney, shall be dissatisfied with the sufficiency of the security admitted by such valuers, it shall be lawful for such creditor to appeal to the next court to be held for the county or corporation, thereupon giving notice to the debtor or his attorney; and if such court shall be of opinion that the security so admitted was insufficient, the execution upon which such security was admitted, shall be deemed and taken as a lien upon the goods and chattels of such debtor, and shall not be discharged but upon payment of the debt and costs, or tender of other sufficient security, satisfactory to the court; and moreover the bond and security given by such debtor, shall remain valid until such counter-security be given. There shall be paid by the creditor, his agent, attorney, or other representative, to each of the valuers appointed by virtue of this act, four shillings for each day's attendance at any sale, and no more, let the number of executions be what it may, which shall be taxed in the bill of costs where there is but one execution, and where there shall be more than one, in the bill of costs on each execution, proportioned to the amount thereof, and reimbursed to him accordingly; and such attendance shall not be taxed for more than three valuers in any case. And where any property shall be returned to the debtor, or sold on twelve months credit, under this act, such persons shall give the sheriff or other officer a certificate, that in their opinions, such property would not sell for three-fourths of its real value, and that the security taken was sufficient; and such certificate shall be returned by the sheriff with the execution, and shall be a full indemnification for him therein. Every person appointed by a court to judge of the value of property taken in execution, and of the sufficiency of securities offered agreeably to the direction of this act, shall before he proceeds to act under such appointment, take an oath before the court of the county or corporation, or a magistrate thereof, "That he will truly and impartially execute the trust reposed in him by this act."

1787. ch. 7.
s. 5. &
1788. ch. 77.
s. 8.

1787, ch. 7,
s. 5.

SEC. XXIV. WHERE any bond directed or permitted to be given by this act, shall be assigned, and execution issued thereon against the original obligor or obligors, and on such execution there shall be a return by the sheriff or other officer, that there were no goods, or not sufficient goods, of the obligor or obligors, to make the debt and costs, it shall be lawful for the clerk who issued such execution, to issue a second execution against the assignor or assignors of such bond, for the debt mentioned therein, or such part thereof as shall appear to be still due; on which execution there shall be similar proceedings to those on an execution against the original obligors.

1b. ib.
1788. ch. 77.
s. 5.

SEC. XXV. WHERE any writ of *capias ad satisfaciendum* has been or shall be served on any debtor, it shall be lawful for such debtor to tender to the sheriff or other officer serving the same, slaves or personal property to the value of the debt and costs for which such execution has issued, or may hereafter issue, which property the said sheriff or other officer shall receive and proceed to sell in like manner as is herein directed in the case of goods taken in execution upon a writ of *feri facias*, and shall thereupon discharge such debtor out of custody. *Provided always*, That if such property so tendered, shall not be sufficient to satisfy the debt or damages, and costs, or shall be under any lien or incumbrance, so as that the whole cannot be sold, a new *capias ad satisfaciendum*, or *feri facias*, at the option of the plaintiff, shall issue for any balance, and the clerk of the court from which such execution originally issued, shall, upon the return of the sheriff, of the insufficiency or incumbrance as aforesaid, issue a new *capias ad satisfaciendum*, or *feri facias*, if required. But where such property shall have been under any incumbrance, the debtor shall not be at liberty to tender slaves or personal estate on a second *capias ad satisfaciendum* being served, or in case of a *feri facias* issued in consequence of such return, to avail himself of the privileges of this act.

1787. ch. 7.
s. 6,

SEC. XXVI. NOTHING in this act contained, shall be construed to extend to any proceedings that may be had in consequence of any distress made, or to be made, for any rent reserved and due, or which may hereafter become due, upon any demise, lease, or contract, whatsoever.

SEC. XXVII. THE valuers shall be amenable to their respective county or corporation courts, and at the discretion of such courts, may be deprived of their office for neglect of duty, or malfeasance therein; and upon the death, resignation, or removal from office, of any such valuer, the vacancy shall be supplied by new appointment of the county or corporation court in which it shall happen.

When the sheriff shall, under any execution, have fixed the time and place for the sale of the property taken under such execution, he shall summon three of the commissioners appointed to value the property and ascertain the sufficiency of securities, to attend at the time and place of such sale; if only two of the said commissioners attend, they shall, after the hour of two o'clock, choose one of the bystanders to assist them in such valuation; if only one of the said commissioners shall attend, he shall at the same time, and in the same manner, choose one of the bystanders, and they shall, together, choose a third, to value such property as aforesaid; if neither of the said commissioners shall attend, the sale shall be postponed until another day, which shall not be longer than ten days, when the same proceedings shall be had as are directed to take place on the day first appointed for the sale: The sheriff shall administer the same oaths to the persons chosen by the commissioners, as are directed by this act, to be administered to the commissioners by the county or corporation courts. *Provided always*, that the said commissioners shall not be summoned upon any *fiery facias*, where the debt or damages shall not exceed ten pounds, unless the defendant, his agent, attorney, or other legal representative shall require the same; and where the commissioners shall not be summoned, and the debt or damages shall not exceed the sum aforesaid, the sale shall proceed, and the sheriff or other officer possess and exercise the same power of valuation as the commissioners would have possessed and exercised had they been summoned, but shall receive no reward for such valuation.

1788 ch. 77.
s. 11.

SEC. XXVIII. THE valuers shall make known in every case to any person requiring the same, before or at the sale, the valuation by them made of the goods or other estate taken in execution. Ib. ib. s. 9.

SEC. XXIX. THE sheriff or coroner (as the case may be) shall be allowed for taking the bonds to the creditor, thirty pounds of tobacco and no more; for proceeding to sell if the property be actually sold or the debt paid, the commission of *five per centum* on the first hundred pounds, or ten thousand pounds of tobacco, and *two per centum* on all sums above that, and one half of such commission where he shall have proceeded to sale, and the defendant shall have replevied; and no other commission, fee, or reward shall be allowed upon any execution, except for the expense of removing and keeping the property taken. Ib. ib. s. 4.

SEC. XXX. UPON actual sale of any property under this act, no principal debtor shall become the security. Ib. ib. s. 10.

SEC. XXXI. WHERESOEVER on a sale for cash or tobacco under any execution, the amount of such sale shall exceed the principal, interest, and costs, the sheriff or other officer shall pay such excess or surplus to the debtor, his executors, administrators or agent; and if any sheriff or other officer shall fail or refuse to pay such surplus or excess when required, such sheriff or other officer, his or their security or securities, his or their executors or administrators, shall every and each of them be liable to the like penalty and judgment in favor of the said debtor, as is prescribed and directed by law in favor of the plaintiff against the sheriff, for not paying the principal, interest, and costs levied on an execution. 1791. ch. 3.
s. 2.

SEC. XXXII. WHEN a sheriff or other officer under any execution, shall receive the whole or any part of the money or tobacco for which the said execution issued, and the person against whom such execution may have issued, his executors or administrators, shall obtain an injunction to such execution, or for any part of the money or tobacco mentioned therein, before the money or tobacco so received by such sheriff or officer is paid to the plaintiff, his agent or attorney, or his executors or administrators, in every such case the sheriff or other officer, his executors or administrators shall repay to the person or persons against whom such execution issued, his or their executors, administrators, or agent, the money or tobacco so received, or such part thereof as may be enjoined; and if any sheriff or other officer, his or their executors or administrators, shall fail or refuse when required to repay such sum of money or tobacco so received and enjoined, to the person having a right to demand the same, such sheriff or other officer, and their securities, his or their executors and administrators, and every of them, shall be liable to the like penalty and judgment in favor of the person, his executors or administrators, by Ib. ib. s. 3.

whom the said injunction is obtained, as is directed by law in favor of the plaintiff, against the sheriff, for not paying money or tobacco levied on an execution.

1748, ch. 8,
s. 21.

SEC. XXXIII. IF any person or persons, taken or charged in execution, shall enter into bond with good and sufficient securities, under a reasonable penalty, upon condition that he or they shall not depart or go out of the rules or bounds of the prison to which he or they be committed, it shall be lawful for the sheriff or officer in whose custody such prisoner shall be, to permit him or them to go out of the prison and return at their pleasure.

1b. ib, s. 24.

SEC. XXXIV. AND for the relief of insolvent debtors, who shall be taken in execution, and to prevent the long imprisonment of unfortunate people, which can be no benefit, but rather a disadvantage to their creditors: *Be it further enacted,* That if any person shall hereafter be taken or charged in execution, in any suit commenced or prosecuted in any court of record within this commonwealth, and shall have remained in prison twenty days, it shall be lawful for any judge or justice of the said court, by warrant under his hand and seal, to command the gaoler or keeper of the said prison, to bring before the said court, if sitting, or if not sitting, in case it be a superior court, before any two judges of the said court, at a certain time and place therein to be appointed, and if an inferior court, before any two justices of the said court, at their county courthouse, likewise on a certain day to be appointed in such warrant, the body or bodies of such person or persons so in prison as aforesaid, together with a list of the several executions with which he or she shall stand charged in the said gaol: which warrant such gaoler is hereby required to obey; and reasonable notice thereof shall be given to the party or parties, his or their executors, administrators, or agents, at whose suit such prisoner or prisoners shall be in execution: And every such prisoner, coming before the said court, judges, or justices (as the case shall be) shall subscribe and deliver in a schedule of his whole estate, and make oath and swear to the effect following, that is to say:

1769. ch. 3.
s. 7

1753, ch. 1.
s. 31.

1748. ch. 8.
s. 24.

"I, A. B. do upon my corporal oath, in the presence of Almighty God, solemnly swear, profess, and declare, that the schedule now delivered, and by me subscribed, doth contain to the best of my knowledge and remembrance, a full, just, true, and perfect account, and discovery, of all the estate, goods and effects unto me any ways belonging, and such debts as are to me owing, or to any person in trust for me; and of all securities and contracts whereby any money may hereafter become payable, or any benefit or advantage accrue to me, or to my use, or to any other person or persons in trust for me; and that I, or any other person or persons in trust for me, have not land, money, stock, or any other estate, real or personal, in possession, reversion, or remainder, of the value of the debt or debts with which I am charged in execution; and that I have not directly or indirectly sold, lessened, or otherwise disposed of in trust, or concealed all or any part of my lands, money, goods, stock, debts, securities, contracts, or estate, whereby to secure the same, to receive or expect any profit or advantage therefrom, or to defraud or to deceive any creditor or creditors to whom I am indebted in any wise howsoever. SO HELP ME GOD."

1769 ch. 3.
s. 7.

SEC. XXXV. WHICH schedule being so subscribed in open court, if taken in court, and if not in the presence of two judges or justices, shall be returned to the clerk of the court, there to remain for the better information of the creditors; and after delivering in such schedule, and taking such oath, such prisoner shall be discharged by warrant from such court, or from two judges or justices (as the case may be) which warrant shall be sufficient to indemnify such sheriff or officer against any escape, or escapes, action or actions, whatsoever, which shall or may be brought or prosecuted against him or them by reason thereof. And if any action should be commenced against any sheriff or officer for performing his duty in pursuance of this act, he may plead the general issue, and give this act in evidence.

1748. ch. 8.
s. 26.

SEC. XXXVI. *PROVIDED* always, That notwithstanding such discharge, it shall be lawful for any creditor or creditors at whose suit such insolvent prisoner was imprisoned, at any time afterwards, to sue out a writ of *scire facias* to have execution against any lands or tenements, goods or chattels, which such insolvent person shall thereafter acquire or be possessed of.

SEC. XXXVII. ALL the estate which shall be contained in such schedule, and any other estate which may be discovered to belong to the prisoner, for such interest therein as such prisoner hath and may lawfully depart withal, shall be vested in the sheriff of the county wherein such lands, tenements, goods or chattels shall lie, or be found; and such sheriff is hereby authorized, empowered, and required to sell and convey the same to any person or persons whatsoever, for the best price that can be got for the same, and the money arising from such sale shall be by such sheriff or officer, paid to the creditor or creditors at whose suit such prisoner or prisoners shall be imprisoned, saving to every such prisoner his or her necessary apparel and utensils of trade. 1769. ch. 3. s. 9. 1748. ch. 8. s. 25.

SEC. XXXVIII. WHEN any insolvent debtor shall be discharged, pursuant to this act, and the schedule subscribed and delivered in by such prisoner shall contain articles of money or tobacco due to such prisoner, or of goods, chattels, or estates, belonging to him, and in the possession of any other, in that case the clerk of the court with whom such schedule is directed to remain, shall immediately issue a summons against each of the persons named as debtors in the said schedule, and against such others as are therein said to have possession of any goods, chattels, or estates of the property of the prisoner, reciting the sum of money or the quantity of tobacco he or she is charged with, or the particular goods, chattels, or estates, said to be in his possession, and requiring him or her to appear at the next court, and to declare on oath, whether the said money or tobacco, or any part thereof, be really due to such prisoner, or whether such goods, chattels, or estates, be really in his or her possession, and are the property of such prisoner; and if the person so summoned, shall fail to attend according to such summons, or to shew good cause for his non-attendance, it shall be lawful for the court to enter judgment against every such person, for the money, tobacco, goods, chattels, or estates, in such schedule mentioned, together with costs of suit, a lawyer's fee excepted; and if any such person so summoned, shall appear and be sworn, judgment shall be entered for so much of the money, tobacco, goods, chattels, or estates, as he or she shall acknowledge to be due, or to be of the property of such prisoner, and in his possession, with costs as aforesaid; which judgment shall be entered in the name of the sheriff, who may thereupon proceed to levy the executions as in other cases, and to dispose of the money, tobacco, goods, chattels, or estates, so recovered, in the same manner as the estate contained in the schedule is hereby directed to be disposed of. 1769. ch. 3. s. 10.

SEC. XXXIX. *PROVIDED* always, That where any such garnishee shall not acknowledge the whole money or tobacco to be due, or all the goods, chattels, or estate, mentioned in the schedule to be of the property of the prisoner, and in his possession, the sheriff, or such prisoner at any time after, unless barred by any of the acts limiting the time for the commencement of actions, shall be at liberty to claim the residue by legal process, and the former judgment, as to such garnishee, shall be no further bar in such process, than for so much money or tobacco, or such goods, chattels, and estates, as the garnishee is thereby ordered to pay or deliver.

SEC. XL. EVERY sheriff shall be allowed to retain out of the effects of such insolvent debtor, before the distribution thereof, all reasonable expenses in recovering such money, tobacco, goods, chattels, and estates as aforesaid, including such a fee to a lawyer for the proceeding against the garnishee as shall be judged reasonable by the court; and if such effects be not sufficient, he shall be reimbursed such expenses by the creditor or creditors, if more than one, in proportion to their demands.

SEC. XLI. WHERE such insolvent person shall not be able to satisfy and pay his ordinary prison fees, the sheriff or gaoler may demand and receive of the party or parties at whose suit such insolvent person shall be imprisoned, all such fees as shall become due until such creditor shall agree to release such prisoner; and if the creditor, upon notice given to him or her, his or her attorney or agent, shall refuse to give security to the sheriff or gaoler, for the payment of such prison fees, or shall fail to pay the same when demanded, it shall and may be lawful for such sheriff or gaoler to discharge such debtor out of prison according to the directions of this act. 1772. ch. 13. s. 1. 1748. ch. 8. s. 28.

1748. ch. 8. SEC. XLII. *PROVIDED nevertheless*, That such insolvent prisoner shall be
s. 28. afterwards liable to the action of the creditor, to recover such fees; and such cre-
ditor shall and may, notwithstanding his consent to the releasing such prisoner, at
1769. ch. 3. any time afterwards sue out a *scire facias*, to have a new execution against the
s. 8. lands and tenements, goods and chattels of such prisoner, in case he or she shall
afterwards become possessed of any.

1789. ch. 13. SEC. XLIII. WHEN any debtor is in custody on several executions, it shall
s. 38. not be lawful for such debtor to demand any more or other dieting, than if he was
in custody on one execution only: nor shall any sheriff or gaoler demand or re-
ceive more than the rate fixed by law in case of a debtor confined on one execu-
tion only; which shall be paid by the creditor at whose suit such debtor was first
taken.

1788. ch. 67. SEC. XLIV. AN execution appearing to be duly served in other respects
s. 75. shall be deemed good, although it be not directed to any sheriff.

Ib. ib. s. 76. SEC. XLV. IF a *distingas* issue in detinue, the court for good cause shewn,
may direct it to be superseded, so far as it respects the specific thing, and to be
executed for the alternative price or value only if fixed in the judgment, or if the
same shall afterwards be fixed by a writ of enquiry.

Ib. s. ib. 78. SEC. XLVI. IF a replevy-bond be quashed as faulty, the sheriff taking the
same shall be at all times liable for damages to the party injured, or his represen-
tatives.

1791. ch. 3. SEC. XLVII. AND whereas doubts have arisen in what manner judgment
s. 5. shall be rendered against any sheriff, coroner, or serjeant of a corporation, who
shall fail to return an execution to the office from whence it issued, on or before
the return day thereof: For a plain declaration of the law, *Be it enabled*, That
where any writ of execution or attachment for not performing a decree in chance-
ry shall come into the possession of any sheriff, coroner, or serjeant of a corpora-
tion, and he shall fail to return the same to the office from whence it issued, on or
before the return day thereof, it shall be lawful for the court, ten days previous
notice being given, upon the motion of the party injured, to fine such sheriff, co-
roner, or serjeant of a corporation, at their discretion, in any sum not exceeding
five pounds per month, for every hundred pounds contained in the judgment or de-
cree on which the execution or attachment so by him detained was founded, and
so in proportion for any greater or lesser sum, counting the aforesaid months from
the return day of the execution or attachment, to the day of rendering judgment
for the said fine.

1753. ch. 1. SEC. XLVIII. IF any sheriff, under sheriff, or other officer, shall make re-
s. 36. turn upon any writ of *fieri facias* or *venditioni exponas*, that he hath levied the
debt, damages, or costs, as in such writ is required, or any part thereof, and shall
not immediately pay the same to the party to whom the same is payable, or his at-
1763. ch. 5. torney, or shall return upon any writ of *capias ad satisfaciendum*, or attachment for
s. 1. not performing a decree in chancery, for payment of any sum of money or tobac-
co, that he hath taken the body or bodies of the defendant or defendants, and
hath the same ready to satisfy the money and tobacco in such writ mentioned, and
shall have actually received such money or tobacco of the defendant or defendants,
or have suffered him, her, or them to escape with the consent of such sheriff, un-
der sheriff, or officer, and shall not immediately pay such money or tobacco to the
party to whom the same is payable, or his attorney, then, or in either of the said
cases, it shall and may be lawful for the creditor at whose suit such writ of *fieri*
facias, *venditioni exponas*, *capias ad satisfaciendum*, or attachment shall issue, upon
a motion made in the next succeeding General Court, or other court from whence
such writ shall issue, to demand judgment against such sheriff, officer, or under
sheriff, or securities of such under sheriff, for the money or tobacco mentioned in
such writ, or so much as shall be returned levied on such writs of *fieri facias* or
1789. ch. 13. *venditioni exponas*, with interest thereon at the rate of fifteen *per centum per an-*
s. 37. *num*, from the return day of the execution, until the judgment shall be discharged.

And such court is hereby authorized and required to give judgment accordingly, and to award execution thereon, provided such sheriff or officer have ten days previous notice of such motion.

SEC. XLIX. AND whereas it is unreasonable that sheriffs should be obliged to go out of their counties to give notice to creditors at whose suit any person may be in custody of such sheriff, or to pay money levied by executions: *Be it further enacted*, That where any execution shall be delivered to the sheriff of any other county than that wherein the creditor resides, such creditor shall name some person in the county where the execution is to be levied to be his, her, or their agent, for the particular purpose of receiving the money on such execution, and for giving to and receiving from the sheriff any notices which may be necessary relating thereto, and payments made, and notices given to such agent shall be as effectual as if made or given to the creditor. And if any creditor shall fail to appoint such agent, no judgment shall be entered against the sheriff for non-payment of the money and tobacco mentioned in such execution, unless a demand thereof shall have been first made of such sheriff in his county, by the creditor or some other person having a written order from him. Nor in case of failure in appointing such agent, shall the sheriff or prisoner be obliged to give notice previous to the discharge of such prisoner, either for want of security for his prison fees, or upon his taking the oath of an insolvent debtor; but such prisoner may be discharged in those cases respectively, without any notice to be given to the creditor so failing. 1769. ch. 3. s. 13.

SEC. L. AFTER obtaining a final decree for lands, slaves, or money, or things of a specific nature in any court having chancery jurisdiction, the clerk of such court shall, upon the request of the party obtaining such decree, issue any writ of execution, either a *fiery facias*, *capias ad satisfaciendum*, *habere facias possessionem*, or any judicial process which may now issue from any court of common law, according to the nature of the case, for carrying the said decree into effect; which writ shall issue in the name of the commonwealth, and bear *teste*, and be signed by the clerk of the court: And all process so issued, shall be executed and returned to the clerk's office from which the same issued, from term to term, on the return days thereof, by the officer or officers to whom the same shall be directed, and shall have the same operation and possess the same force to all intents and purposes, as similar process issued upon judgments at common law. The officer or officers to whom any such process is directed, shall be subject to the like penalties for misconduct or neglect; and the court shall exercise in this, and in all cases relating to such process, the same powers as if the said process had issued upon a judgment obtained at common law. But nothing herein contained shall prohibit any party from proceeding to carry any order or decree in chancery into execution, in any manner in which he might avail himself before the passing of this act. 1787. ch. 10. s. 4.

SEC. LI. NO goods or chattels whatsoever, lying or being in or upon any messuage, lands, or tenements, which are or shall be leased for life or lives, term of years, at will, or otherwise, shall at any time hereafter, be liable to be taken by virtue of any writ of execution, or on any pretence whatsoever, unless the party so taking the same shall, before removal of the goods from off such premises, pay or tender to the landlord, or lessor thereof, or his agent, all the money or tobacco due for the rent of the said premises at the time of taking such goods or chattels in execution. 1748. ch. 10. s. 5.

SEC. LII. PROVIDED nevertheless, That such rent arrear do not amount to more than one year's rent; and if more be due, then the party suing out such execution, paying or tendering to such landlord, or his agent, one year's rent, may proceed to execute his judgment: And the sheriff or officer serving the same, is hereby empowered and required, to levy and pay to the plaintiff, as well the money or tobacco so paid for rent as the execution money. Ib. ib. s. 6.

ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

PROVIDED always, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

A BILL to reduce into one, all acts and parts of acts, relating to the Appointment and Duties of Sheriffs.

Oct. 1783 c. 2.
1785. ch. 40. SECTION I. **B**E it enacted by the General Assembly, That the court of every county within this commonwealth, shall in the month of June or July, annually, nominate to the Governor or chief magistrate for the time being, three persons named in the commission of the peace for such county, one of which persons so nominated, being approved by the Governor, with the advice of the Privy Council, shall be commissioned by the governor to execute the office of sheriff in such county.

1784. ch. 51. SEC. II. IF the court of any county shall fail to nominate persons for the office of sheriff, within the periods above prescribed, every justice so neglecting, shall forfeit and pay the sum of fifty pounds.

SEC. III. IF any person hereafter appointed sheriff of any county, shall fail two months after his appointment to give bond and sufficient security, for the true and faithful performance of his duty as sheriff, and also for the collection of taxes, the clerk of the court of such county shall, within one month thereafter, transmit to the Governor for the time being a certificate of such neglect or failure, under the penalty of one hundred pounds.

Oct. 1784.
ch. 59. s. 1. SEC. IV. IF the person first commissioned to the said office of sheriff, shall fail to give bond in two months after his appointment, and the clerk shall certify the same as above required, or if the person first nominated shall fail to make application to the Governor or chief magistrate, for a commission, within one month after such nomination, the Governor, with the advice of Council, is hereby authorized and required to issue a commission to some other person nominated by the court, which commission to all intents and purposes shall supersede and annul the former commission, and if the person thereafter commissioned, or nominated as aforesaid, shall be guilty of the like neglect, the Governor, with the advice of the Council, is hereby authorized and required, in either case, to commission any other person or persons nominated by the court, which last commission shall in like manner supersede the former.

1783. ch. 2.

1784. ch. 6. SEC. V. IF any sheriff shall die in the time of his sheriffalty, the Governor, with the advice of the Council, may, and is hereby empowered and desired to commission some other person nominated by the court, to be sheriff in his room.

1785. ch. 40. SEC. VI. IF any person now appointed, or hereafter to be appointed sheriff, shall refuse to accept and execute such commission, he shall forfeit and pay fifty pounds current money, to the use of the commonwealth, to be recovered with costs, on motion by the auditor in the General Court, giving the party ten days previous notice of such motion; but if the person refusing shall declare upon oath in, or produce other satisfactory proof to, the court, that he hath used his best endeavors truly and *bona fide* without covin or collusion, to get security for performance of the said office, and that he cannot obtain such security, which oath the county court by whom such person was recommended, upon application to them made, is hereby required and empowered to administer and cause to be recorded, such person shall not be liable to any forfeiture for such refusal, but a new commission shall issue, appointing another sheriff in his stead, in the same manner as if such person were actually dead.

SEC. VII. NO person who hath once served as sheriff, or paid his fine, shall 1748. ch. 6.
be liable to any further forfeiture, until every justice, other than a member of the s. 3.
House of Delegates, or of the Senate of this state, in commission of the peace for
that county, shall have actually served as sheriff, or paid his fine, or discharged
himself upon oath, in manner aforesaid.

SEC. VIII. EVERY person hereafter commissioned and qualified as aforesaid, 1785. ch. 40.
shall be continued in office for one year after his qualification, and may, with his
own consent, and the approbation of the Executive, be continued for two years, and
no longer; unless by some accident or impediment, a succeeding sheriff shall be
prevented from qualifying, in which case the preceding sheriff shall continue to
act, until a successor shall be qualified according to the directions of this act.

SEC. IX. AND whereas inconveniencies and disputes may arise, in case of Ib. ib.
the death of a sheriff before his term of service may expire, and in such case the
person appointed to succeed to the office of sheriff, must serve one year from the
time of such appointment, if not continued for two years, with his own consent,
and with the approbation of the Executive, and in that case for two years from
such appointment, which may occasion the sheriffs in different parts of the coun-
try, to be appointed at different periods of the year: *Be it therefore enacted*, That
when by the death of any sheriff, another shall be appointed at any other time than
in the months of June or July, the Governor, with advice of Council, may con-
tinue such successor in office, until the court to be held in the months of June or
July next after his two year's continuance therein shall expire; any thing in this
act to the contrary, notwithstanding.

SEC. X. EVERY person accepting the commission of sheriff, shall, before Ib.. ch. 2.
his being sworn into or executing his office, enter into one bond before the jus-
tices of his county court, payable to the treasurer of this commonwealth, for the
time being, and his successors, for the use of this commonwealth, with good and
sufficient security, in the sum of ten thousand pounds, for the true and faithful col-
lecting, accounting for, and paying the taxes imposed by law in his county; which
bond every county court is hereby empowered and required to demand, take, and
cause to be acknowledged before them in open court, and recorded: And an at-
tested copy thereof shall be transmitted by the clerk to the auditor of public ac-
counts, which shall be admitted as evidence in any suit, motion, or proceeding,
founded thereon.

SEC. XI. EVERY person accepting the commission of sheriff, shall likewise 1755. ch. 11.
enter into another bond with two good and sufficient securities at the least, in the 1781. ch. 40.
sum of ———, with a condition in the following form, to wit: The condi- 1782. ch. 38.
tion of the above obligation is such, that whereas the above bound A. B. is con-
stituted and appointed sheriff of the county of ———, by a commission from the
Governor, under the seal of the commonwealth, dated the ——— day of ———
last past: If, therefore, the said A. B. shall well and truly collect all levies, and
account for and pay the same in such manner as is by law directed, and also all
fines, forfeitures, and amercements, accruing or becoming due to the common-
wealth in the said county; and shall duly account for and pay the same to the trea-
surer of this commonwealth for the time being, for the use of the commonwealth,
in like manner as is or shall be directed in case of public taxes; and shall in all
other things truly and faithfully execute the said office of sheriff, during his con-
tinuance therein; then the above obligation to be void, otherwise to remain in full
force and virtue.

AND shall also enter into one other bond before such court, with the like secu-
rities, in the sum of ———, with a condition in the following form, to wit:
The condition of the above obligation is such, that whereas the above bound A. B.
is constituted and appointed sheriff of the county of ———, by commission
from the Governor, under the seal of the commonwealth, dated the ——— day
of ——— last past: If, therefore, the said A. B. shall well and truly collect and
receive, all officers fees and dues put into his hands to collect, and duly account
for, and pay the same to the officers to whom such fees are due respectively, at
such times as are prescribed and limited by law, and shall well and truly execute,
and due return make of all process and precepts to him directed, and pay and satis-
B b

by all sums of money and tobacco by him received, by virtue of any such process, to the person or persons to whom the same are due, his or their executors, administrators, or assigns; and in all other things shall truly and faithfully execute and perform the said office of sheriff, during the time of his continuance therein; then the above obligation to be void, otherwise to remain in full force and virtue.

BOTH which bonds shall be made payable to the Governor, or Chief Magistrate, for the time being, and his successors, and entered of record in the county court. And in the name of the Governor, or Chief Magistrate, or his successors, any person or persons injured, may and shall at his, her, or their costs and charges, commence and prosecute suits on such last mentioned bond, against the parties therein bound, their executors, or administrators, and shall and may recover all damages which he, she, or they may have sustained by reason of the breach of the condition of his bond; and such bond shall not become void upon the first recovery, or if judgment shall be given against any plaintiff or plaintiffs, who shall sue upon such bond; but may be put in suit and prosecuted from time to time for the benefit, and at the proper costs and charges of any party injured, until the penalty expressed in such bond shall be recovered.

PROVIDED always, That if any verdict or judgment shall pass for such sheriff or his security, the person at whose instance such suit shall be brought or prosecuted, shall pay such sheriff or his security their costs.

1772. ch. 11. SEC. XII. NO person whatsoever, shall be capable to serve or execute the office of under sheriff, or deputy sheriff, of any county, for any longer time than two years, in any period of four years, unless he shall produce to the court of the county, satisfactory proof of his having collected and accounted for the taxes assigned to him by his former principal.

SEC. XIII. EVERY sheriff, deputy sheriff, or collector, who shall hereafter receive from any person or persons, any officer's fees, dues, taxes, county levies, or poor rates, shall deliver to the person so paying, a fair and distinct account of the several articles for which he shall receive the same, and also a receipt for what shall be so paid him, and every sheriff, deputy sheriff, or collector, failing herein, shall forfeit and pay to the person by whom such payment shall be made, the sum of twenty shillings for each offence; to be recovered with costs before any justice of the peace of the county where such sheriff, deputy sheriff, or collector, shall reside; and such sheriff or other officer, shall moreover be liable to the party grieved for all damages he may sustain, by means of such officers demanding and receiving a greater sum than shall be really due, to be recovered by action of trespass on the case, before any court of record within this commonwealth; in which action, where the plaintiff shall recover, he shall also recover full costs.

1748. ch. 6. SEC. XIV. EVERY sheriff himself, or by his lawful officers, or deputies, shall from time to time execute all writs and other process to him legally issued and directed, within his county, or upon any bay, river, or creek adjoining thereto, and shall make due return thereof, under the penalty of forfeiting one thousand pounds of tobacco for every failure, one moiety to the Governor, for the time being, for the better support of the government, and the contingent charges thereof, and the other moiety to the party grieved; to be recovered with costs, by action of debt or information, in any county court of this commonwealth; and such sheriff shall be further liable to the action of the party grieved, at common law, for his or her damages; and for every false return, the sheriff shall forfeit and pay three thousand pounds of tobacco, to be recovered, divided, and applied, in the same manner as last mentioned; and shall also, in like manner, be liable to the party grieved, for damages.

SEC. XV. NO sheriff shall return, upon any writ to him directed, that the defendant is not found in his bailiwick, unless such sheriff or other officer shall have actually been at the dwelling-house or place of abode of such defendant, and not finding him shall have there left an attested copy of the same writ or process; and where any defendant shall be a known inhabitant of any county, and not of the county of that sheriff to whom the process shall be directed, such sheriff shall return the truth of the case, but not that the person is not found in his county; and thereupon such process, issued from any county court clerk's office, as to such

defendant, shall abate, and be dismissed. *Provided always,* That it shall not be lawful for any sheriff or other officer, to execute any writ or process upon the Lord's day, commonly called Sunday, nor upon any person attending his duty at any muster of militia, or any election of members of the state legislature, or of that of the United States, or at any election for the appointment of electors to vote for a President of the United States; nor on any person attending as a witness, being duly summoned at or on any order of survey issued from any court, or as a witness attending on arbitration made by order of court, or attending commissioners appointed to take depositions in the case of contested elections; and that all process so executed, shall be illegal and void; unless the same be issued against any person or persons, for treason, felony, riot, breach of the peace, or upon any escape out of prison or custody, and such process shall and may be executed at any time or place.

SEC. XVI. IT shall not be lawful for any sheriff, or his officer or deputy, to take any obligation of or for any person or persons in his custody, for or concerning any matter relating to his office, otherwise payable than to himself, as sheriff, and dischargeable upon the prisoner's appearance; and rendering himself at the day and place required in the writ whereupon he was or shall be taken or arrested: And every obligation by any sheriff taken in other manner or form, by colour of his office, shall be null and void; except, in any special case, any other obligation is or shall be by law particularly and expressly directed.

SEC. XVII. NO sheriff of any county within this commonwealth, shall demand or take any other greater fee or reward whatsoever, nor shall have any allowance, reward, or satisfaction from the public, for any services or business by him done, other than the allowance given and provided by law; all other services shall be by him done *ex officio*.

SEC. XVIII. EVERY sheriff shall collect and receive the taxes due to the commonwealth, and shall also collect all levies, fines, forfeitures and amercements, and all officers fees, (and poor rates when appointed by the overseers of the poor to collect the same) and shall account for and pay the same, in the manner 1748. ch. 6. directed by law.

SEC. XIX. NO sheriff or other officer, nor any collector of taxes, levies, fines, forfeitures, amercements, or poor rates, or officers fees, shall at any time seize or distrain the slave or slaves of any person, if other sufficient distress can be had, nor shall make or take unreasonable seizures or distresses, upon penalty of being liable to the action of the party grieved, grounded upon this act, in which action the plaintiff shall recover his full costs, although the damages given may not exceed forty shillings.

SEC. XX. WHERE any person or persons accused of treason, felony, or other capital crime, shall be committed to any county gaol, and the sheriff shall have cause to suspect such person will attempt to escape, such sheriff is hereby empowered and required to impress sufficient guard for securing such prisoner or prisoners, so long as he, she, or they continue in the said gaol, to be paid by the public, in the same manner as the charges of summoning and holding courts, for the examination of criminals. 1791. ch. 3. s. 5.

SEC. XXI. AND for removing all controversies, touching the manner of turning over prisoners upon a sheriff's quitting his office: *Be it further enacted,* That the delivery of prisoners by indenture between the old sheriff and the new, or the entering upon record in the county court, the names of the several prisoners and causes of their commitment, delivered over to the new sheriff, shall be sufficient to discharge the late sheriff from all suits or actions for any escape that shall happen afterwards.

SEC. XXII. EVERY sheriff shall have, and may retain, for all taxes, levies, fines, forfeitures, and amercements, and all officers fees, except clerks and surveyors fees, an allowance of *five per centum* for collecting and paying the same, and no more.

SEC. XXIII. NO sheriff shall be obliged to go out of his county to pay money levied by execution, or to give notice to creditors, at whose suit any person may be in custody of such sheriff. *

1763. ch. 5. SEC. XXIV. THE high sheriff of a county shall have the same remedy and judgment against his under sheriff, or deputy, or the securities of such under sheriff, or deputy, failing to pay the money by him received on any execution to the high sheriff, or the party to whom the same is payable, his agent or attorney, or suffering any person in his custody to escape, as the creditor at whose suit the writ issued may have against the high sheriff, or such under sheriff, or deputy, or the securities of such under sheriff or deputy. †

SEC. XXV. AND to prevent disputes between sheriffs and their several deputies, which of them may have acted in serving of executions, or process: *Be it further enacted*, That when any under sheriff hath served any writ, execution, attachment, or other process whatsoever, he shall endorse on the back of such writ the day of the month he or they shall have served the same, and subscribe his name, as well as that of his principal, to the return of such writ or other process; and every under sheriff failing herein shall be liable to the same penalty as is by law inflicted on the sheriff for a false return, and to be recovered and appropriated in the same manner.

May 1780, ch. 11. SEC. XXI. WHERE the sheriff of any county heretofore hath, or hereafter shall appoint any person to be his under sheriff, to collect the taxes required by law in his county, and such under sheriff shall neglect, or refuse to account for, and pay such taxes, to the sheriff under whom he hath been or shall be appointed, or to the treasurer, at the time appointed for paying the same, it shall and may be lawful for the District Court, or court of the county whereof he hath been, now is, or shall be sheriff, upon motion to them made by such sheriff, his executors or administrators, to give judgment against such under sheriff, his securities, their heirs, executors, or administrators, for all the money wherewith he shall be chargeable, and fifteen *per centum* damages, and five *per centum* interest thereon, and to award execution for the same; provided such under sheriff and his securities, have ten days previous notice of such motion.

SEC. XXVII. *PROVIDED also*, That no execution shall be issued against an under sheriff and his securities, for the fifteen *per centum* damages, and interest thereon, unless judgment shall have been obtained against the high sheriff for the same.

Ib. ib. SEC. XXVIII. EVERY sheriff, under sheriff, or collector of taxes, now in office, shall, in the court of his county, in one of the succeeding courts after the passing this act, take the following oath or affirmation, to wit:—"I, A. B. do swear, or affirm, that all and every sum or sums of money that I shall receive or collect by virtue of my office of sheriff or collector, shall not directly or indirectly by me, or by my procurement, be disposed of to any other purpose, than as directed by law;" and every sheriff or collector of taxes hereafter to come into office, before he shall enter into the duties thereof, shall take the like oath or affirmation.

* For the method of proceeding in these cases, see the Execution law, Sect. —

† For the method of proceeding in these cases, see the Execution law, Sect. —

SEC. XXIX. ANY sheriff or collector of taxes misapplying any part of the money by him collected and received, to private purposes, and being thereof convicted, shall forfeit and pay triple the sum of money so misapplied, for the use of the commonwealth, and suffer as in cases of wilful perjury.

SEC. XXX. WHERESOEVER the lands of any sheriff or collector would have been bound for any debt due to the commonwealth, they shall be bound in like manner, to the security or securities who may have paid the whole or a part of such debt, and it shall be lawful for the General Court to award a like execution against the said lands, on the motion of such securities, to that which would have been issued on behalf of the commonwealth; provided that ten days previous notice shall be given to the principal, his heir or devisee, as the case may be. 1789. ch. 29.

ALL and every act and acts, or parts of acts, within the purview of this act, shall be, and are hereby repealed.

PROVIDED, That all rights and remedies given by every such act or acts, and all such parts of acts, shall be, and remain as if this act had not been made.

A BILL concerning Coroners.

SECTION I. **B**E it enacted by the General Assembly, That from time to time hereafter, as often as there shall be a vacancy in the office of coroner, in any county within this commonwealth, the court of such county shall, at their next session thereafter, nominate ——— fit and discreet persons, residing and having sufficient substance within such county, to answer to all manner of people, to be coroner for such county; one of which persons, being approved by the Governor, with the advice of the Council, shall be commissioned by the Governor, to execute the office of coroner within such county, during good behavior. 3d. Edw. 1. ch. 10. 14th Edw. 3. ch. 8.

SEC. II. IF any court shall fail to make such nomination at the time prescribed by this act, every justice of such court shall forfeit and pay the sum of fifty pounds current money, to be recovered by action of debt in any court of record within this commonwealth; one half to the use of the informer, the other half to the use of the commonwealth; or by information at the suit of the auditor, in the General Court, in which case the whole penalty shall be to the use of the commonwealth.

SEC. III. *PROVIDED always,* That nothing in this act contained, shall be construed to restrain or prevent the county courts from nominating any person or persons to the Governor, to be coroner within such county, although there shall not be any vacancy in the said office.

SEC. IV. EVERY coroner so commissioned, before he enters upon the duties of his office, shall, in open court, take the oath of fidelity to the commonwealth, and the following oath of office, viz. "I A. B. do swear, that I will well and truly serve the commonwealth, in the office of a coroner, in this county of ———, and therein will diligently and truly do all things appertaining to my said office, according to the best of my knowledge and power, both for the common weal and the good of the inhabitants within the said county, taking such fees only as are by law allowed. SO HELP ME GOD." And before he shall be at liberty to serve any writ of execution, shall moreover, in the court of his county, enter into bond, with good and sufficient security, payable to the Governor for the time being, and his successors, for the use of the commonwealth, in the penalty of ——— pounds, with condition for the true and faithful execution

of his office. And if any coroner shall presume to serve any such writ of execution without first taking the said oaths, and entering into bond as by this act is directed, he shall forfeit and pay the sum of five hundred pounds, one half to the use of the informer, the other half to the use of the commonwealth; and shall moreover be liable to the same damages, judgment, and execution at the suit of the party grieved, in case of any misdemeanor or breach of duty in the execution thereof, as he would have been subject to in the like case after having been duly qualified to execute his said office.

1st. H. 8th.
ch. 7 4 h.
Edw 1st.
stat. 1.

SEC. V. UPON request made to a coroner to come and enquire upon the view of any person slain, drowned, or otherwise by misadventure, or suddenly, dead, or wounded, or where houses are broken, he shall forthwith go to the place where any be slain, drowned, or otherwise by misadventure, or suddenly, dead, or where any house is broken; and shall forthwith issue his precept to the sheriff or constable of the county, commanding him to summon at least twelve of the most intelligent and respectable freeholders of the vicinage or county, to appear before him at the same place with all convenient speed.

1b. ib. stat. 2.

SEC. VI. AND when the said freeholders come to such place, the coroner, upon the oath of twelve of them shall enquire in this manner, that is to wit: If they know where the person was slain, whether it were in any house, field, bed, tavern, or company, and who were there: Likewise it is to be required, who were culpable either of the act or of the force, and who were present, either men or women, and of what age soever they be, (if they can speak, or have any discretion.)

1b. ib.

SEC. VII. AND how many soever be found culpable by inquisition in any of the manners aforesaid, they shall be taken and delivered to the sheriff, and shall be committed to the gaol, until the next court to be holden within the county for the examination of such offender, and the coroner shall have the like power and authority to summon such court, and shall proceed in like manner as a justice of the peace before whom such criminal might have been charged with such offence, could or ought to do by law.

1b. ib.

SEC. VIII. IF it fortune any such man be slain, which is found in the fields, or in the woods, first it is to be enquired, whether he were slain in the same place or not; and if he were brought and laid there, they shall do so much as they can to follow their steps that brought the body thither, whether he were brought upon a horse or in a cart: It shall be enquired also if the dead person were known, or else a stranger, and where he lay the night before.

1b. ib.

SEC. IX. AND if any be found culpable of the murder, the coroner shall immediately go unto his house, and shall enquire what goods he hath, and what corn he hath in his grange; and, if he be a freeman, they shall enquire how much land he hath, and what it is worth yearly; and further what corn he hath upon the ground; and when they have thus enquired upon every thing, they shall cause all the land, corn, and goods to be valued, in like manner as if they should be sold incontinently, and thereupon such coroner shall safely keep the same in his hands, until the person found culpable by the inquisition be taken, or surrender himself.

Stat. 1 & 2.
Phil. & Mary.
ch. 13. s. 5.

SEC. X. AND every coroner upon any inquisition found before him, whereby any person or persons shall be indicted for murder or manslaughter, or as accessory or accessories to the same before the murder or manslaughter committed, shall put in writing the effect of the evidence given to the jury before him, being material; and the said coroner shall have authority by this act to bind all such, by recognizance or obligation, as do declare any thing material to prove the said murder or manslaughter, offences or felonies, or to be accessory or accessories to the same as is aforesaid, to appear at the court to be holden within the county, city, or borough for the examination of such offender or offenders, then and there to give evidence against the party so indicted, at the time of his trial; and shall certify as well the same evidence as such bond or bonds in writing as he shall take, together with the inquisition or indictment before him taken and found, at or before the time of his said trial thereof to be had or made, to such court.

SEC. XI. IN like manner it is to be enquired of them that be drowned or suddenly dead, and after such bodies are to be seen, whether they were so drowned, or slain, or strangled by the sign of a cord tied streight about their necks, or about any of their members, or upon any other hurt found upon their bodies, whereupon they shall proceed in the form abovesaid. Stat. 4. Edw. 1. Stat. 2.

SEC. XII. AND immediately upon these things being enquired, the bodies of such persons being dead or slain shall be buried. Ib. ib.

SEC. XIII. IF any person be grievously wounded, especially if the wounds be mortal, the party accused shall be taken immediately, and kept until it be known perfectly whether he that is hurt shall recover or not; and if he die the defendant shall be kept; and if he recover health, he shall be attached by pledges, according to the danger of the wound.

SEC. XIV. ALSO all wounds ought to be viewed, the length, breadth, and deepness, and with what weapons, and in what part of the body the wound or hurt is, and how many be culpable, and how many wounds there be, and who gave the wound; all which things must be inrolled in the roll of the coroners.

SEC. XV. MOREOVER, if any be accused of any act done, as principal, they that be accused as accessory, shall be attached also, and safely kept in custody until the principal be attainted or delivered.

SEC. XVI. IF any be suspected of the death of any man being in danger of life, he shall be taken and imprisoned, as before is said; in like manner hue shall be levied for all murders, burglaries, and for men slain, or in peril to be slain, and all shall follow the hue and steps, as near as can be, and he that doth not shall be amerced at the discretion of a jury. Ib. ib.

SEC. XVII. IF any be found culpable by inquisition taken in manner directed by this act, and be not present, nor in custody, the coroner shall straight issue his warrant to apprehend the person so found culpable, and the accessories, if any; and the person accused, if apprehended, shall straightway be carried before some justice of the county or corporation where the offence was committed, to be dealt with as the laws direct.

SEC. XVIII. IF any coroner be remiss, and make not inquisition upon the view of the body slain, or murdered, or shall not endeavour to do his office upon any person dead by misadventure, or shall not certify the inquisition by him taken in the manner directed by this act, he shall for every such offence forfeit the sum of ——— pounds, to be recovered by action of debt, in any court of record of this commonwealth, one half thereof to the use of the informer, the other half to the use of the commonwealth.

SEC. XIX. IN every case when by reason of a just exception to the sheriff of any county, any writ, of what nature soever the same may be, shall be delivered to the coroner of such county to execute, such coroner shall do and perform all things by virtue of such writ, which the sheriff himself might or ought to have done had there been no just exception against him, according to the nature of the case; and in case of any neglect or breach of his duty, such coroner shall be subject to the same pains, penalties, fines, forfeitures, and damages, and to the same proceedings, judgment, and execution, as sheriffs are subject to in like cases. And upon every execution issued against a coroner, upon any judgment against him obtained for breach or neglect of his duty, the clerk shall endorse, that "no security is to be taken."

ALL and every act, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

A BILL concerning Escheators.

1785. ch. 63.
s. 1.

SECTION I. **B**E it enacted by the General Assembly, That there shall be one escheator commissioned in every county by the Governor, on recommendation from the court of the same county, who shall execute his office in proper person, and not by deputy, and shall, before the court of the county, be bound in the penalty of one thousand pounds, with security to be approved by the same court, duly to perform the duties of his said office.

Ib. ib. s. 2.

SEC. II. THE said escheator shall sit in convenient and open places, and shall take his inquests of fit persons who shall be returned and impanelled by the sheriff of the county, and shall suffer every person to give evidence openly, in their presence, to such inquests; and the said inquisition so taken, shall be by indentures to be made between the said escheator and them of the inquest, whereof the counter-part, sealed by the escheator, shall remain in the possession of the first person that shall be sworn in the said jury, and by him shall be returned to the court of the same county, there to be recorded; and the other part, sealed by the jurors, shall by the escheator be sent into the General Court, within one month after the inquest taken. And if it be found for the commonwealth, and there shall be any man that will make claim to the lands, he shall be heard without delay, on a traverse to the office, *monstrans de droit*, or petition of right; and the said lands or tenements shall be committed to him if he shew good evidence of his right and title to hold, until the right shall be found and discussed for the commonwealth, or for the party, finding sufficient security to prosecute his suit with effect, and to render and pay to the commonwealth the yearly value of the lands, if the right be discussed for the commonwealth.

Ib. ib. s. 3.

SEC. III. NO lands nor tenements seized into the hands of this commonwealth, upon such inquest taken before escheators, shall be in any wise granted nor to farm let to any, if it be not to him or them which claim as is aforesaid, till the same inquests and verdicts be fully returned into the General Court, nor within six months after the same return, but shall entirely and continually remain in the hands of the escheators, who shall answer to the commonwealth the issues and profits yearly coming of the said lands and tenements, without doing waste or destruction.

Ib. ib. s. 4.

SEC. IV. IF no person within the six months before mentioned, make claim to the lands or tenements so seized, or claim being so made, if it be found and discussed for the commonwealth, the clerk of the General Court shall, within one month thereafter, certify to the escheator of the county where the lands lie, that no claim hath been made, or that being made, it hath been discussed for the commonwealth; which escheator shall thereupon proceed to make sale of the lands for the benefit of the commonwealth, to him who will give the most, after one month's public notice of the time and place of doing the same, and shall certify the purchaser and price to the register of the land-office, who, on receiving a certificate that such price hath been paid into the treasury, shall have a grant executed to the purchaser, in such manner as by law directed, in the case of unappropriated lands.

Ib. ib. s. 5.

SEC. V. WHERE any person holds lands or tenements for term of years, or hath any rent, common, office, fee, or other profit *apprender* of any estate of freehold, or for years, or otherwise, out of such lands, or tenements, which shall not be found in such office or inquisition, such person shall hold and enjoy his lease, interest, rent, common, office, fee, and profit *apprender*, in manner as if no such office or inquisition had been found, or as if such lease, interest, rent, common, office, or profit *apprender*, had been found in such inquisition. Also, if one person or more be found heir by office or inquisition in one county, and another per-

son be found heir to the same person in another county; or if any person be untruly found lunatic, idiot, or dead, the person grieved by such office or inquisition, may have his *traverse* or *monstrans de droit* to the same, without being driven to any petition of right, and proceed to trial therein, and have like remedy and restitution upon his title, found or adjudged for him therein, as in other cases of *traverse* upon untrue inquisition found.

ALL and every act and acts, clauses and parts of acts containing any thing within the purview of this act, shall be, and the same are hereby repealed.

A BILL to reduce into one, the several Acts concerning the Public Revenue.

SECTION I. **E**VERY county court within this commonwealth, shall, when- 1782, ch. 19.
 proceed to appoint discreet and reputable persons to be commissioners for the pur- 1786, page 8.
 poses herein after mentioned: In those counties where more commissioners than one
 are directed to be appointed, the said courts shall also distinctly lay off and ascertain the
 bounds of the district allotted to each commissioner: In each of the counties of Au-
 gusta, Botetourt, Culpeper, Fauquier, Greenbrier, Loudoun, Harrison, Monongalia,
 Montgomery, and Ohio, there shall be three commissioners; in each of the counties
 of Accomack, Albemarle, Amherst, Bedford, Berkeley, Amelia, Brunswick,
 Buckingham, Campbell, Caroline, Charlotte, Chesterfield, Cumberland, Din-
 widdie, Fairfax, Franklin, Frederick, Fluvanna, Gloucester, Goochland, Green-
 ville, Halifax, Hanover, Henrico, Henry, Isle of Wight, King & Queen, King
 George, Essex, Louisa, Lunenburg, Mecklenburg, Nansemond, Norfolk, North-
 ampton, Orange, Pittsylvania, Prince Edward, Prince William, Princess Anne,
 Richmond, Rockbridge, Rockingham, Shenandoah, Southampton, Spottsylvania,
 Stafford, Surry, Sussex, Westmoreland, Northumberland, Hardy, Hampshire,
 Washington, and Russell, there shall be appointed two commissioners; and in
 each of the counties of Powhatan, Charles City, Elizabeth City, King William,
 James City, Lancaster, Middlesex, Warwick, New-Kent, Prince George, and
 York, and in the cities of Williamsburg and Richmond, and the towns of Pe-
 tersburg, Alexandria, Fredericksburg, and Winchester, and borough of Norfolk,
 there shall be appointed one commissioner. *PROVIDED*, That no member of
 either House of Assembly, persons holding any office in civil government, receiv-
 ing stated salaries, practising attorneys, or physicians, clerks of courts, inspectors,
 ordinary keepers, sheriffs, or their deputies, or persons that have been in the of-
 fice of sheriff, deputy sheriff, or collector of public taxes, in their county, shall
 be capable of acting or serving as commissioner, unless it shall appear by sufficient
 testimony, other than the party's own oath, that such sheriff or collector hath
 completed his collection, fully paid the amount thereof into the treasury, and fi-
 nally closed every account relative thereto. The clerk of the court shall certify to
 every commissioner his appointment without delay; and thereupon each com-
 missioner shall repair to some acting magistrate of the county, and take the follow-
 ing oath or affirmation, to wit:—"I, A. B. do swear, or solemnly, sincerely,
 and truly, declare and affirm, that, as commissioner of the taxes for _____
 county, city, town, or borough of Norfolk (as the case may be) will to the best
 of my skill and judgment, diligently and faithfully execute the duties of the said
 office, without favour, affection or partiality. And that I will do equal right and
 justice, according to the best of my knowledge, in every case in which I shall act
 as commissioner. SO HELP ME GOD." A certificate of which oath or af-
 firmation shall be given the commissioner by the magistrate administering it, and
 the magistrate shall also certify the same to the next court held for his county, to be
 recorded. Every commissioner thus qualified, shall perform the following duties
 within his district: He shall in the first place, apply to the preceding commisi-
 oner, or other person, who shall have possession of it, for the book containing the
 owners names, the number of acres or lots, the rate at which land is valued by
 the acre, the amount, or total value of each tract or lot of land within his district,
 and the tax payable thereon; which book, the said commissioner shall keep so long
 as he shall continue in office, and on his death, resignation, or inability to act, shall
 be delivered to the succeeding commissioner for the district. And every commis-
 sioner shall in the said book, note from time to time, all such alterations, aliena-
 tions, divisions, and additions, as may happen within his district, and shall also
 perform all the duties of the commissioners of the land tax, as herein prescribed.

1782. Oa. ch.
19. s. 3 & 4.

SEC. II. THE clerk of the General Court, and the clerks of the several District Courts, on or before the first day of May annually, are hereby directed to make return, and the clerks of the county and corporation courts, to deliver to the said commissioners, a list of conveyances or partitions recorded in their respective courts within the preceding year, certifying the quantity and situation of the lands so conveyed; and the register of the land office, on or before the first day of April annually, shall in like manner transmit a list of all grants issued within the year preceding, to be by them valued at a price equal to other lands within their respective districts, similar in soil and situation, and such commissioner shall give a credit to the person disposing of the same, and charge the purchaser or receiver with the tax payable thereon; and in like manner in cases where lands have not been heretofore valued, or where lands which now are vacant and may hereafter be taken up, the said commissioners shall, and they are hereby required, to value the same, and charge the owner thereof with the tax in manner aforesaid.

1786. page 8.

SEC. III. The said commissioners shall severally on the tenth day of March annually, begin, and continue, proceeding without delay through their respective districts, and call on every person subject to taxation, or having property in his or her possession or care, on which any tax is imposed, for a written list thereof, which list being corrected, if necessary, and distinctly read over by the commissioner to the person delivering the same, he or she shall then make oath or affirmation, that such list contains a just and true account of all persons and of every species of property in his or her possession or care, within the district, (land only excepted) subject to taxation on the ninth day of March then next preceding, and that no contract, change, or removal whatever of property had been made or entered into, or any other method devised, practised or used, in order to evade the payment of taxes; which oath or affirmation the commissioner is hereby empowered and directed to administer. Each of the said commissioners shall, after collecting the lists of property from the inhabitants of his district in manner before mentioned, make four alphabetical general lists therefrom, shewing, in columns, according to the form hereto annexed, the date when each list was received, the persons chargeable with the tax or taxes, distinguishing those also subject only to county levies and poor rates, and the number or quantity of every species of property subject to tax, which lists shall be kept and delivered in the following manner: Each commissioner shall retain one of those lists in his own possession, so long as he continues in office, afterwards to be delivered to his successor, as in the case of the land tax books, and one other of the lists, together with the lists taken from the individuals in his district, shall be returned to the clerk, who shall examine the same, and, if found to be erroneous either in addition or otherwise, correct the same, together with the others, and then certify them to be true copies. The list in the clerk's office shall serve for laying the county levy, and fixing the poor rates, and be subject to the inspection or examination of every person who may choose to examine the same, provided they be not taken out of the clerk's possession; and copies may be had at the charge of the person or persons desiring the same. One other of the said lists, after being certified by the clerk, shall be delivered by the commissioner to the high sheriff of the county, as his guide to collect the taxes, and the remaining fourth list being also certified by the clerk, shall be transmitted by the commissioner to the auditor's office, there to be minutely examined, and to be produced by the auditor and admitted as evidence by the General Court for the amount of taxes charged the sheriff. All which lists, it is hereby declared to be the duty of the several commissioners to have delivered to the several persons or officers, on or before the last day of May annually. And the said commissioners shall take a receipt or acknowledgement in writing of the delivery of such lists. The said commissioners shall also at the time of delivering lists of taxable property herein before directed, deliver to the clerk of his county, and at the auditor's office, a fair and correct copy of the state of the land tax, noting the alterations, alienations, divisions, and additions, that may have taken place in the preceding year, within his district, to enable the clerk to adjust his book of the land tax, and the auditor to adjust the equalizer's books; and the book containing the land tax, together with the annual returns of the several commissioners, lodged in the clerk's office, shall be subject at all times to the inspection of every person, in like manner as the lists of taxable property; and the said commissioners shall also deliver to the Sheriff, an exact list of taxes due from all and every person or persons for land within his district, to enable the sheriff to proceed in his collection.

1b. ib.

SEC. IV. IN case any person appointed to the office of commissioner under this act, shall refuse to serve, not having a reasonable excuse in the opinion of the court of the county, he shall, for such refusal, forfeit and pay the sum of thirty pounds.

SEC. V. ANY commissioner after having served one year, may resign his office, provided that he gives notice to the court of his county, at some court after completing the lists of taxable property, and previous to the month of January, to enable them to appoint a successor without delaying the public business; and upon the refusal to act, notice of resignation, death, or inability of any commissioner, it shall be the duty of the court of such county, immediately to appoint a successor, and the clerk is directed to call for all papers in the preceding commissioners hands, or his legal representatives, who, on refusal or neglect of delivering them, shall be liable to the same penalty as the commissioners of the land tax; and in case they be lost, shall be furnished on application as herein before directed. The court of each county, city, and corporation, shall make such allowance to the clerk for his services under this act, as they shall think reasonable, which shall be levied on the tithables within the same. Ib. ib.

SEC. VI. THE commissioners of the land tax, shall before the first day of August in every year, return to the courts of their respective counties or corporations, a correct account of their services, and the said courts are hereby respectively authorized and required to ascertain the time in which the said services might have been reasonably performed; and in lieu of the allowance heretofore made, the said commissioners shall be paid by the treasurer of this commonwealth, on warrant from the auditor of public accounts, six shillings per day, agreeably to the time so ascertained by the court. Such commissioners shall moreover be exempted from military duty during their continuance in office; and for every entry of alienation or alteration, they may demand and receive two shilling and sixpence, and no more. 1791. ch. 8. s. 1.

SEC. VII. IF any person shall give or deliver to a commissioner, a false or fraudulent list of persons or property subject to taxation, or shall refuse to give a list on oath or affirmation, when required by the commissioner, the person or persons so refusing, shall be liable to a fine of five pounds, and the commissioners shall proceed to list such person's property agreeable to the best information he can procure, and all such property so ascertained, shall be moreover subject to a triple tax, to be collected and distrained for by the sheriff as in other cases; and in the case of an imperfect, false, or fraudulent list, the person giving the same shall be subject to pay a fine of five pounds, and the property subject to a triple tax; which fines and triple taxes shall be recovered in the county court by the following mode of proceeding, and applied as herein after directed. 1786. page 8.

SEC. VIII. THE commissioner shall give information thereof personally, or or if unable to attend, in writing, under his hand, to the next court held for his county; which court shall forthwith direct the clerk to issue a summons, requiring the party to appear at the next court to be held for the county, to shew cause, if any he can, why he should not be fined and triply taxed, for giving an imperfect or fraudulent list of taxaables; and the person or persons, upon being served therewith by the sheriff, and appearing, shall immediately plead to issue, and the matter thereof shall be enquired into by a jury, or the court, at the defendant's option; and on conviction, or the person failing to appear upon being summoned, the fine and triple tax shall be established by judgment of the court, who, unless good cause shewn at the next succeeding court, for such failure, shall award execution for the fine, and certify the amount of the tax to the sheriff, for collection, and to the auditor's office; the amount of which fine, after deducting thereout as much as may be necessary to pay the clerk and sheriff's fees, and such allowance as the court may think reasonable to make the commissioner for his extraordinary trouble on the occasion, shall be applied towards lessening the county levy; and the triple tax shall be charged to the sheriff, and accounted for in like manner as the other taxes. Ib. ib.

SEC. IX. THE clerk of the court shall set up at the door of his courthouse a copy of the proceedings in such cases, on the succeeding court day. And for preventing frauds or impositions upon commissioners: *Be it further enacted*, That every person or persons having knowledge of any incorrect, false, or fraudulent list being given a commissioner, shall give information thereof, either to a commissioner, or to the county court, in like manner as the commissioner is directed, and thereupon the same mode of proceeding shall be had, as if the commissioner gave information; and the person informing shall be entitled to, and receive one half of Ib. page 9.

the fine imposed on the offender or offenders, to his own use, and the other half, after paying costs, to be applied towards lessening the county levy.

1786. page 9. SEC. X. THE clerk of every county court shall transmit to the Governor, a fair and attested copy of all proceedings had at his court, in pursuance of this act, immediately after every court, noting therein the names of the sitting magistrates; which attested copy shall be admitted as proof on any motion in the General Court, by the auditor, for the recovery of any fine imposed by this act. The clerk, justices, or commissioners, failing to perform any one of the duties imposed on them respectively, by this act, or the commissioners of the land tax, or their legal representatives, refusing or neglecting to deliver the books of the land tax, in their possession, to the clerk, shall be subject to a fine of fifty pounds, to be recovered by motion on any day, at either of the sessions in the General Court, at the instance of the auditor; notice of such motion being previously given in the same manner as to delinquent sheriffs.

Ibid. page 10. SEC. XI. IN case any person should be absent from his or her place of residence at the time the commissioner calls to receive the list, and it should appear to the commissioner that such absence was not intentional, or done with a view of avoiding the delivery of such list, it shall be lawful for the commissioner to require the attendance of such absent person with his or her list, at any time and place within the said district, provided such person tenders his or her list to the commissioner, and makes oath to the justness of it, on or before the twenty-fifth day of May annually; and in case of failure, the commissioner shall proceed in like manner as is before directed in cases of refusal to give in lists; and the court shall determine upon the circumstances of the case, whether to inflict or remit the fine and triple taxes.

SEC. XII. A LIST of all the insolvents returned by the sheriff to the court, shall be transmitted by the clerk to the commissioners of the tax, to be entered in their book of taxes for that year. And no sheriff shall have credit for such insolvents in his account with the public, unless certified by the said commissioners to have been allowed by the court; and the said commissioners shall moreover transmit with the said lists of insolvents, an account of the tax of any person who may have removed out of the county, together with the name of the county to which they have removed; which account the auditor is hereby directed to transmit to the commissioners of the tax of the county to which they have removed, to be charged on their books, and collected by the sheriff. An account of all fines or additional taxes imposed by virtue of this act, shall be by the said commissioners transmitted to the auditor's office before the first of August annually. And the said commissioners shall state in their book of taxes, a general account with the sheriff for all taxes, fines, and additional taxes in their county, crediting him for all insolvents, and for the allowances made to the commissioners for their salaries, which allowances to the commissioners the sheriff shall have credit for in his account with the public, and also for all payments made by the said sheriff to the public, receipts for which shall be by the said sheriff transmitted to the said commissioners within twenty days after obtaining the same, a copy of which account shall be by the said commissioners transmitted to the auditor's office before the first day of May annually.

SEC. XIII. THE commissioners shall severally return on oath to their respective courts, a list of all their own taxable property, and shall enter the same in the several lists to be by them returned to the different persons and public officers, and on failing to comply herein, shall be liable to be proceeded against in the same manner, and subject to the same penalties as in case of any other neglect.

SEC. XIV. THE courts of the several towns and corporations herein before mentioned, are authorized and directed to appoint commissioners in like manner as the county courts do, which said commissioners when appointed, shall within their several towns and corporations, execute their office under the same restrictions and regulations as those appointed by the county courts; and on failure of the courts or clerks of the different towns and corporations to do the duty hereby required of them, they shall be subject to the same penalties as county courts and clerks of county courts are.

Form of keeping the book containing the Land Tax by the commissioner.

List of the Land Tax within the district of A. B. commissioner in the county of C.

Persons names owning land.	num ber of lots.	yearly rent of lots.	amount of tax on lots at 25 s. in 100 l	quan- tity of land.	rate of land per acre.	total a- mount of value of land exclu- sive of lots.	amount of tax on lands at 7,6 per 100 l.	total amount of tax on lots and lands.
Sum total.								

Form of return of taxable property to be made by the commissioners.

List of Taxable Property within the district of A. B. commissioner in the county
of C. for the year 17 .

	Date of receiving list from individuals.
	Persons names changeable with the tax.
	Number of white males above sixteen years.
	Blacks above twelve years old.
	Blacks above fifteen years old.
	Horses, mares, colts and mules.
	Ordinary licences.
	Billiard tables.
	Stud horses.
	Rates of covering per season.
	Couches, chaises and post chaises.
	Other riding four wheel carriages.
	Riding carriages with two wheels.
Total amount.	

SEC. XV. THE taxes on lands, slaves, and other property enumerated by this act, shall and may be discharged by making payment thereof at the rates and proportions herein after mentioned, viz. On lands, for every hundred pounds value, agreeably to the equalizing law, the sum of seven shillings and six-pence; for all slaves above the age of twelve years, the sum of two shillings and six-pence, except such as have been or shall be exempted by the respective county or corporation courts; for every stud horse, the price at which such horse covers a mare the season; for all other horses, mules, mares, and colts, six-pence each; for all ordinary licences, forty shillings each; for all billiard tables, fifteen pounds each; for all lots and houses in towns, one and a quarter *per centum* on the rents thereof, to be ascertained by the rent paid by the tenant, and where such house and lot is in the occupation of the proprietor, the yearly rent or value shall be ascertained by the commissioners appointed as aforesaid, or either of them, by a comparison of its value with other houses or lots actually rented: *Provided* that the owner or proprietor of any such house or lot, if he thinks himself aggrieved by such valuation, may appeal to the county court, whose judgment, as to the yearly rent or value, shall be final. And the said commissioners, or either of them, to ascertain the rent paid on houses or lots actually leased, may call on the tenant or proprietor, to declare upon oath or solemn affirmation, what is the amount of the rent paid for the same; and every person so called upon, and refusing to declare, shall forfeit and pay the sum of one hundred pounds, to be recovered by motion, on ten days previous notice, to be made by the commissioners, or either of them;

1790. ch. 1. for every coach, chariot, or post chaise, at the rate of nine shillings for each wheel; for all other riding carriages with four wheels, six shillings for each wheel; for all other riding carriages with two wheels, three shillings for each wheel.
1786. ch. 26. Every person failing to render and give in to the persons who now are or hereafter may be appointed by law to receive an account of the taxable property, a true and just account of the carriages he or she may be possessed of on the day above mentioned, shall for every such offence, forfeit and pay four times the amount of the tax that would have been due for the said carriage, if it had been given in agreeable to this act: *Provided*, That nothing herein contained, shall be construed to subject the maker of any such carriage to the payment of the said tax, during the time that any such carriage shall remain in his possession; *And provided also*, That no tax shall be collected on lands, lots, houses, or other property belonging to this commonwealth, or to any county, town, college, houses for divine worship, or seminary of learning.

1b. ch. 1. SEC. XVI. THE taxes on lands, slaves, and other property, shall hereafter become due on the thirty-first day of December in every year, may be distrained for on the _____ day of _____ next succeeding, and shall be collected, accounted for, and paid, in specie only, into the public treasury, by the sheriff of the county or other collector to be appointed by virtue of this act, on or before the _____ day of _____ next thereafter, under the penalties herein after mentioned.

1788. ch. 74. SEC. XVII. IF upon the refusal to act, or disability of any sheriff, it shall appear proper to the Executive to appoint a collector, it shall be lawful for them to make such appointment; and the person so appointed collector, shall possess every power, and be liable to every penalty, which the sheriff himself would have possessed, or been liable to.

1789. ch. 29. SEC. XVIII. IT shall and may be lawful for all deputy sheriffs, to collect and make distress for any taxes which may be due at the time of the death of their high sheriffs, and shall be accountable for the same in like manner as if the sheriff had lived.

1b ch. 48. s. 1. SEC. XIX. IT shall be lawful for the county courts within this commonwealth, to qualify any person or persons for the purpose of completing the collection of taxes in any county, where the sheriff and his deputy shall die before such collection be completed; and the person or persons so appointed, shall have the same power in all respects, for collecting such arrears, as the high sheriff would have had. But the acting executors or administrators of such high sheriff, and deputy sheriff, if any such there be at the time of such appointment, shall be summoned by order of the said court, to shew cause, if any they can, against the person whom the said court shall nominate.

1789. ch. 48. s. 2. SEC. XX. THE person or persons so appointed shall in all respects be subject to the same penalties for any neglect of duty or failing to account for and pay to the person or persons authorized to receive the money by him or them so collected, and may be proceeded against by such executors or administrators, in the same manner as deputy sheriffs are liable to, and may be proceeded against by their principals.

Oct 1782. ch. 8. s. 4. SEC. XXI. IN case payment be not made by any person chargeable with any tax, levy, fine, or forfeiture, or amercement, the sheriff or collector shall have power to distrain the slaves, goods, or chattels which shall be found upon the lands or in possession of the person so indebted or failing, notwithstanding such slaves, goods, or chattels shall be comprised in any deed or mortgage.

SEC. XXII. IF the owner thereof shall not pay such tax, levy, fine, forfeiture, or amercement, within five days after such distress, such sheriff or collector shall and may lawfully sell the same, or so much thereof as shall be sufficient to

discharge the said taxes, and the charges of distress and sale, for ready money; but if the same will not sell, in the opinion of the officer making such distress, for three fourths of their value, then the same shall be sold for one month's credit, giving six days notice of the day and place of sale, by advertising the same at the church or other public places in the parish wherein such distress shall be, on the next Sunday after the expiration of the said five days, and shall take sufficient security residing in the county, for the payment thereof; and in case the same shall not be paid within the said one month, such officer is hereby authorized and required to make immediate distress on the goods or chattels of such purchaser or purchasers, his, her, or their security or securities, and proceed to sell the same for the best price that can be got in ready money; which several sales shall be good and effectual in law against all persons whatsoever.

SEC. XXIII. SO much of all and every act and acts, as directs the sale of 1790. ch. 5.
any lands for the payment of the tax thereon, shall be, and the same is hereby re- s. 1,
pealed.

SEC. XXIV. THE sheriff or collector of the taxes within this commonwealth, Ib. ib.
shall, at the time he returns a list of other insolvents, return a list of the lands within his county or corporation, where he cannot find effects within the same belonging to the owner or tenant thereof sufficient to satisfy and pay the tax; and if the court shall be satisfied of the truth thereof, they shall admit the sheriff or collector to make oath thereto, and direct the same to be certified to the auditor of public accounts, together with the names of the owners of each tract of land, and the place of his or her abode, where the court can obtain such information. The auditor shall credit the same in account for the land tax, with such sheriff or collector. And where it shall appear to the auditor, from the certificates of the county courts, or, where he shall be satisfied from any other information, that any person so chargeable with any of the said taxes resides, or hath any slaves or personal property, in some other county of this commonwealth, than that in which such land may lie, he shall certify the amount of the land tax with which such person is or shall be chargeable to the sheriff or collector of the county in which such person may reside, or have slaves or personal property (as the case may be) and shall debit such sheriff or collector with the amount of the taxes so transmitted to him, who may make distress for the same, and shall be accountable therefor in like manner as for other taxes of his county. A list of these insolvents, with the amount of the tax due from them, respectively, shall be furnished by the clerk of the court to the collector of the tax for the succeeding year, and he shall transmit a copy thereof to the auditor of public accounts, who shall debit the sheriff or collector therewith; and such sheriff or collector shall distrain and account for the same, in like manner as for other taxes. And in case the said taxes cannot be collected the succeeding year, the like return upon oath shall be made, as is herein before prescribed; and thereupon the treasurer shall cause to be inserted in the Virginia Gazette, for three weeks successively, the names of such delinquents, with the quantity of land, the situation thereof, and the taxes due thereon.

SEC. XXV. IN case the tax on any tract of land within this commonwealth Ib. ib.
shall not be paid for the space of three years, the right to such lands shall be lost, forfeited, and vested in the commonwealth; and it shall be lawful for any person to acquire a title to any land so forfeited, in the manner prescribed for acquiring titles to waste and unappropriated lands within this commonwealth, on the eastern waters, by an act, intituled, "An act for reducing into one, the several acts concerning the land-office; ascertaining the terms and manner of granting waste and unappropriated lands; for settling the titles and bounds of lands; directing the mode of processioning; and prescribing the duty of surveyors."

SEC. XXVI. PROVIDED always, That nothing herein contained shall af- Ib. ib.
fect the right of infants, *femes covert*, or persons of unsound mind, who shall be allowed three years to save the same from forfeiture, after such disability be removed. And where any tenant shall be distrained for the taxes due from the proprietor of the land, he shall have credit for the same against such proprietor out of the rents he may owe him; but this act shall not be construed to destroy or impair any contract by which the tenant may be bound to pay the said land tax, or any part thereof.

1787. ch. 42.
s. 8.

SEC. XXVII. IN all cases of landlord and tenant, wherein the tenant shall covenant for the payment of the taxes by law imposed upon the land by him tenanted, the property of every such tenant thereon being, shall be liable to the payment thereof; and to ascertain the same, the clerks of the several county courts, shall, annually, before the first day of April, certify to the commissioners of the tax in his county, an abstract of all deeds or leases for the tenancy of lands lying therein, which shall have been recorded within twelve months last preceding; and the said commissioners shall enter the same in their return of taxable property, for the guidance of the sheriff or collector.

SEC. XXVIII. *AND be it further enabled,* That the following taxes on process shall be paid: On each writ, or declaration in ejectment, instituting any suit in the District Court, or subpoena in the High Court of Chancery, the sum of six shillings; on each writ, declaration in ejectment, or subpoena instituting any suit in the county court, or court of hustings, three shillings; on each appeal to the High Court of Chancery, twelve shillings; on each writ of error, *superfedeas*, and *habeas corpus, cum causa* or *certiorari*, issued from the General Court, a District Court, or High Court of Chancery, six shillings; on each appeal from any county court, or court of hustings, to a District Court, six shillings; one half of the said taxes shall by the respective clerks be taxed in the bill of costs; on each certificate under the seal of any county or corporation court, there shall be paid a tax of six shillings; on each admission of attorneys to practise in the Court of Appeals, or other Superior Court, fifteen pounds; on each admission of attorneys to practise in any inferior court, for each court twenty shillings. No attorney shall be admitted to take the oath required by law, or to appear in any suit in the Court of Appeals, or any Superior Court, or in any county or other inferior court, until he shall have first paid the tax hereby imposed on such admission, to the clerk of the court: *Provided,* That after the admission of an attorney into any one of the Superior Courts, including the Court of Appeals, no tax shall be required for his admission into either of the other Superior Courts.

SEC. XXIX. NO writ, subpoena, nor any writ of error, *superfedeas, certiorari*, or *habeas corpus cum causa*, shall be issued, or declaration in ejectment filed, by any clerk, unless the taxes hereby imposed thereon be first paid down; in all appeals no transcript of the record shall be delivered to the appellant by the clerk of the court, or forwarded by him to a superior court, before the tax imposed thereon be paid; nor shall any certificate under the seal of any county or corporation be granted until the tax thereon shall have been first paid to the clerk keeping such seal.

SEC. XXX. THE clerks of the several courts aforesaid shall, respectively, on or before the first day of April, and first day of October, in every year, account for on oath, and pay into the public treasury, all the monies which by this act they are authorized to receive, after a deduction of five *per centum* therefrom, as a commission for the service hereby imposed. And in case of fraud herein by any clerk, he shall on conviction thereof be deprived of his office.

1784. ch. 47.
s. 5.

SEC. XXXI. THERE shall be paid two shillings and six pence for every transfer of a surveyor's certificate for land, to be collected by the register of the land-office before the issuing of the patent; for every attestation, protestation, and all other instruments of publication, from a notary public, under his seal of office, two shillings and six pence, to be collected and accounted for by the said notary public; and six shillings for each certificate under the seal of the commonwealth, to be collected by the clerk of the council, before the delivery of such certificate; which last mentioned taxes shall be accounted for and paid in the like manner, and with the like commission for collecting, as is directed in the case of other taxes imposed by this act.

ALL and every act and acts, clauses and parts of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

A BILL to reduce into one, the several Acts concerning the Recovery of Debts due to the Public, and the Sale of Lands for Judgments on Behalf of the Commonwealth against Public Officers.

SECTION I. **B**E it enacted by the General Assembly, That when any person who 1786. ch. 61.
hath received, or shall receive, public money from the treasurer, for recruiting or paying the army, building, rigging, or furnishing ships or vessels of war, erecting fortifications, buying clothes, provision, arms, or ammunition, erecting or prosecuting public manufactories, or for other public use, hath not applied, or shall not apply the said money accordingly, or hath neglected, or shall neglect, to account for and repay so much thereof as shall remain unapplied, upon a motion on behalf of the commonwealth, made to any court of record, notice thereof in writing having been given ten days or more to the delinquent, with a state of the matter alledged against him, either by delivering copies of such notice and allegation to him, or leaving them at the place of his usual abode, the said court may give judgment, and award execution against him and his sureties, for so much as a jury to be impannelled instantly, unless good cause be shewn for deferring it, for trial of an issue, if he appear, and make it up, or for enquiry of damages, if he appear not, or appearing, refuse to make up such issue, shall find to be due from him, on any such account as aforesaid, with damages, to be assessed by the jury, and costs. When the attorney prosecuting on behalf of the commonwealth, shall commence an action for breach of a contract, which hath been or shall be entered into with government, or with an agent thereof, to supply the army or navy with provision or other articles, at the emission of the writ he shall file a declaration, with an assignment of the breaches, which with the writ shall be delivered to the officer to whom that is directed, and served upon the defendant fifteen days or more before the return day; and on such return day, or on the return day of the subsequent process, in case the preceding be not legally served, if the defendant appear and make up an issue, or if he appear not, or appearing, refuse to make up such issue, a jury shall be impannelled instantly, unless good cause be shewn for deferring it, to try the issue, or enquire of damages. And in like cases, the agents or contractors of the confederating states of America, may, by the like remedy, on behalf and in the name of the said states, recover money due to them.

SEC. II. **AND** whereas divers persons have, and hereafter may enter into May 1777. ch. 10. s. 5.
contracts with the agents or contractors, for victualling and clothing the army and navy, and have or may fail or refuse to comply therewith: *Be it further enacted*, That upon any suit being brought by any victualler, agent, or contractor, against any person or persons so failing or refusing, the proceedings therein shall be the same, and the plaintiff shall have the same remedy and redress, as is herein before directed in suits which may be brought on behalf of the commonwealth.

SEC. III. **IF** any sheriff or collector of the public taxes, shall fail to account Oa. 1782. ch. 8. s. 4.
for and pay into the public treasury, the taxes by him received, in manner and at the time prescribed by law, every such delinquent sheriff or collector shall be liable to a judgment against him, on motion, to be made by the auditor, or other person appointed for that purpose, at the November General Court, or any subsequent court after such failure, for the amount of the taxes due, and fifteen *per centum* damages, together with an interest of five *per centum* upon the whole amount, until paid, for the use of the commonwealth, and thereupon execution shall issue; provided the party has ten days previous notice of the day on which such motion is to be made.

SEC. IV. **LANDS** and tenements shall and may, by virtue of writs of *fieri facias*, be taken and sold in satisfaction of all judgments which have been obtained 1787. ch. 40. s. 1.
after the seventh day of January, one thousand seven hundred and eighty-eight, or may be obtained hereafter, on behalf of the commonwealth, against any sheriff, coroner, or other public collector, or against his or their security or securities: *Provided*, That the same shall not extend to any such security or securities, who shall have become so before the said seventh day of January, one thousand seven hundred and eighty-eight.

SEC. V. **EVERY** judgment obtained against any sheriff, coroner, or other public collector, shall bind the property of the lands and tenements of such public debtor, from the date thereof. Ib. ib. s. 2.

1787. ch. 40.
s. 3.

SEC. VI. WHEN the goods and chattels taken in execution to satisfy a judgment of the commonwealth by virtue of a *feri facias*, shall not, in the opinion of the officer levying the same, be sufficient to satisfy the debt with damages and costs, the sheriff or other officer shall, at the same time, give public notice at the churches and meeting-houses if any there be, and court house of his county at the next court day, and shall moreover give notice to the owner, if he be in the county, or otherwise to his agent, if any such be known, at some time appointed in the notice, not less than ninety, nor more than ninety-six days from the time of levying the execution, that the said lands and tenements will be exposed to sale by auction on the premises, or at such other place in the county as the owner shall by writing under his hand delivered to the officer, direct.

Ib. ib. s. 4.

SEC. VII. IF the public debtor against whom a judgment hath been entered subsequent to the said seventh day of January, one thousand seven hundred and eighty-eight, or shall be hereafter entered, have several parcels of land which lie in one and the same county, he or his agent may by writing under his hand at any time before the day of sale, require the sheriff or officer to whom a writ of *feri facias* upon the judgment shall be directed, to make the debt or damages and costs of such of the said parcels of land as the owner or his agent shall think proper; and if the parcels lie in different counties, the clerk shall and may at the like request in writing, direct the *feri facias* to the sheriff or officer of any county which the party or his agent making oath or solemn affirmation that he hath lands there, shall particularly mention at any time before the writ shall be delivered to the officer. And if the debt, damages, and costs be made of any other parcel of land, or of lands lying in any other county than that mentioned in such written requisition, the sale of such other parcel of the land in such other county shall be void. If the owner of the land before or at the day of sale, shall not make payment of the debt due to the public, the sheriff or officer shall proceed to sell the said lands and tenements, or such estate and interest as the party convict shall have therein, or so much thereof as will be sufficient, laid off in one entire parcel if it may be done, in such place and manner, as he or his agent if he think proper shall direct, for ready money, or other property as the demand may be, and the costs: But if the estate cannot be sold for three fourths of its value, in the opinion of the valuers of the county, he shall sell the same upon three months credit, taking bond of the purchasers with sufficient surety or sureties for the payment to the chief magistrate of this commonwealth, for the time being. Every bond thus taken, shall mention on what occasion the same was taken, and shall by the sheriff or officer be immediately returned to the clerk's office from whence it issued, there safely to be kept, and when due, execution thereon may be awarded in the same manner, and on the same conditions that executions are now awarded on replevy bonds, and shall in like manner be endorsed by the clerk, "that no security is to be taken."

Ib. ib. s. 5.

SEC. VIII. IN all sales of lands by virtue of an execution, the sheriff or other officer shall convey the same to the purchaser at his costs, by deed in writing, sealed, and recorded as the laws direct for other conveyances of land, which deed shall recite the execution, purchase, and consideration, and shall be effectual for passing to the purchaser all the estate and interest which the debtor had, and might lawfully part with in the lands.

Ib. ib. s. 6.

SEC. IX. IF the lands and tenements, goods and chattels of any sheriff, coroner, or other public collector, are insufficient to satisfy the debt, damages, and costs due to the public, judgment shall be obtained against his security or securities in the same summary way that judgment may by law be obtained against his or their principal, and the lands and tenements, goods and chattels of such security or securities, except as before excepted, shall be taken in execution to satisfy the balance of such debt, damages and costs, in the same manner as the lands and tenements, goods and chattels of his or their principal may be taken and sold agreeable to this act.

Ib. ib. s. 7.

SEC. X. IN every writ of *feri facias* upon judgments which have been obtained subsequent to the said seventh day of January, one thousand seven hundred and eighty-eight, or hereafter to be obtained by the commonwealth, against any sheriff, coroner, or other public collector, or the securities of them, or either of them, after the words, "We command you that of the," the clerk from whose

office such writ shall issue, shall insert the words "Lands and tenements," and conform the subsequent part of such writ thereto.

SEC. XI. AND whereas large sums of money are retained in the hands of sheriffs and other public collectors, to the great injury of the commonwealth: For remedy whereof, *Be it enacted*, That where the property of any sheriff, coroner, or other public collector, or their securities, has been taken in execution to satisfy a judgment obtained by the commonwealth, and the same was not sold for want of buyers, and return thereon hath been made to that effect; or where the property of any sheriff, coroner, or other public collector, or their securities, have been exposed to sale by virtue of any writ of *venditioni exponas*, to satisfy a judgment obtained by the commonwealth, and could not be sold for want of buyers, and return hath been made to that effect; in either of the above cases it shall and may be lawful for the Executive, and they are hereby authorized and required, to direct the officer, to whom any subsequent process in either of the above cases ought to issue, provided such property cannot be sold agreeable to the directions of such subsequent process, to cause such property to be removed to such place in any adjacent county, as the Executive may direct, and there to be sold for money or government securities, on such terms and in such proportions as they shall judge expedient: *Provided*, That, if such property will not sell for three-fourths of its value, in the judgment of the valuers of the county where the sale shall be made, the sheriff or other officer shall sell the same on three months credit, and shall take bonds in the same manner, and the like proceedings shall be had thereon, as is herein before directed in cases of bonds taken on the sale of lands and tenements sold by virtue of this act. 1787 ch. 40. s. 8.

SEC. XII. IN every case where any writ of *fiery facias* or *venditioni exponas* issues against the estate of a sheriff, on behalf of the commonwealth, if by law the same ought to be directed to a sheriff, such writ or writs shall be executed by the high sheriff. In like manner where any writ of *fiery facias* or *venditioni exponas*, shall hereafter issue at the instance of the commonwealth, against the estate of any sheriff, coroner, or other public collector, or their securities, and the goods and chattels of such debtor cannot be sold for want of buyers, the Executive shall direct the property to be removed and sold as above directed, in cases of such sheriffs, coroners, public collector, and securities, whose property has not been sold for want of buyers. Ib. ib. s. 9.

SEC. XIII. IT shall be the duty of the auditor, forthwith to acquaint the Executive when their interposition is, or hereafter may become, necessary to the carrying this act into effect. Ib. ib. s. 10.

SEC. XIV. AND whereas there is reason to suspect fraudulent practices have prevailed in the sales of estates of public debtors, to prevent such practices in future, *Be it enacted*, That the auditor, immediately on the return of any process which he shall suspect was fraudulently executed, shall give notice thereof to the Executive, whose duty it shall be to direct the attorney of the commonwealth for such county to file an information thereupon, in which like proceedings shall be had as in other cases of information; and if it shall appear that such sale was fraudulently made, the property of any thing thus fraudulently sold, shall not be changed, but remain subject to the demand of the commonwealth; and the officer who executed such process, if he be concerned in such fraud, shall ever after be rendered incapable of being appointed to any office of honor or profit. Ib. ib. s. 11.

SEC. XV. AND whereas sheriffs and other public collectors in some instances have proceeded to collect the public revenue without having entered into bond with security for the faithful performance of that duty, which cannot be recovered from such collectors except by the tedious process of law: For remedy thereof, *Be it enacted*, That every sheriff or other public collector, who may have attempted the collection of any of the different species of taxes in any county or corporation in this state, shall be liable to a judgment and execution for the same sum, and in the same summary way, as if such sheriff or other public collector had actually given security agreeable to law. Ib. ib. s. 12.

1787. ch. 40. SEC. XVI. IN all executions founded upon judgments, which were obtained
s. 13. prior to the seventh day of January, one thousand seven hundred and eighty-eight; where it may be necessary to remove any property by virtue of this act, the extra expenses attending such process, shall be discharged by the commonwealth; but in all executions upon judgments obtained after the day last mentioned, or hereafter to be obtained, such additional expenses shall be paid by the owner of the property, and taxed in the costs of the prosecution.

1789. ch. 42. SEC. XVII. ALL sheriffs, coroners, or other persons authorized to levy ex-
s. 1. ecutions of any kind on behalf of the commonwealth, and failing so to do according to law, or withholding any such execution for any longer time than one month after the return day, shall forfeit and pay to the commonwealth, at the rate of fifteen *per centum per annum* on the amount of such execution, to be computed from the return day thereof, until such execution be actually returned.

Ib. ib. s. 2. SEC. XVIII. AND any officer as aforesaid, who shall make a false return on any such execution, shall forfeit and pay twenty-five *per centum* on the amount of such execution.

Ib. ib. s. 3. SEC. XIX. AND in case any sheriff, coroner, or other officer shall levy, on behalf of the commonwealth, any execution, and shall return the same as satisfied, paid or discharged, or in any other words, form or manner, which shall entitle the debtor to a credit therefor, either wholly or in part, and shall fail to pay the amount of such credit within one month after the return day of such execution, or other process, then such sheriff or other officer so failing, shall forfeit and pay to the commonwealth, double the damages and double the interest to which the debtor, against whom the said execution may have issued was subject, to commence and accrue on the return day of such execution, and to continue until payment be made into the treasury; and in all such cases where no damages are expressed, but interest only is required by the said execution from the debtor, the sheriff or other officer failing to pay to the treasurer within one month after the return day of such execution, shall forfeit and pay at and after the rate of twelve *per centum per annum* on the amount.

Ib. [ib. s. 4. SEC. XX. AND whereas great inconvenience arises from sheriffs going out of office after levying an execution, and before the same be fully discharged: *Be it therefore enacted*, That upon all executions of *fiery facias* already issued, or hereafter to be issued, and which have been, or shall be levied, but not discharged, whereby subsequent process is necessary to be issued, every such subsequent process may at the discretion of the auditor, be directed to such person, specially by name, as was high sheriff at the time of levying the former execution, who shall proceed in the execution of such subsequent process, until the debt be fully paid, notwithstanding such person's time as sheriff of the county be expired.

Ib. ib. s. 5. SEC. XXI. AND all and every deputy sheriff levying any execution for, or on behalf of the commonwealth, shall, on failing to sign in addition to his own name, the name of the high sheriff under whom he acts, be subject to the same fine as is hereby inflicted for withholding an execution, to continue until such return be amended by the addition of the high sheriff's name, or the amount of such execution be actually paid, and in case of inability in any deputy sheriff to pay such fine, the same may be recovered of the high sheriff, which he may hereafter recover of such deputy by motion in the court of his county, on giving ten days previous notice to the deputy so failing.

Ib. ib. s. 6. SEC. XXII. AND whereas doubts have arisen in cases of fines and forfeitures incurred by neglect of certain duties, whether a compliance with such neglected duties, after the period particularly assigned for performance doth not bar a recovery of the fines; to remove such doubts, *Be it enacted*, That no compliance with such duties as are by this act prescribed after the respective periods assigned for performance, and notice given of an intended motion as herein after is mentioned, shall bar a recovery of the fines and forfeitures.

SEC. XXIII. AND whereas a practice hath been lately adopted by sundry persons indebted to this commonwealth of making conveyances of their property, and others have procured executions for private debts to be levied on all their estates, for the purpose of defeating the operation of executions issued on behalf of the public, to the manifest prejudice of the public revenue; to remedy which, *Be it enacted*, That in all cases of *fiery facias* not levied by reason that the effects in a public debtor's possession cannot be taken in consequence of any previous *bona fide* execution, mortgage, deed of trust, or any other conveyance, or incumbrance whatsoever, the sheriff holding such execution shall set forth in his return fully and explicitly the nature of the conveyance or incumbrance under which a claim is set up, and in what court the same be recorded, and if by virtue of executions, the names of the persons at whose instance such executions issued, the amount of each, and from what court they were issued, in order that the auditor may institute such proceedings as the attorney-general may direct against all persons concerned, in order to have their claims or demands fully ascertained; and all courts wherein such proceedings shall or may be instituted, are hereby authorized to give the preference in hearing all such cases before others of any kind or nature soever, and to quicken the same by such rules as to them shall seem expedient. 1789. ch. 42. s. 7.

SEC. XXIV. IF any person shall attempt to stop, interrupt or injure the sale of the estate of any public debtor taken by virtue of an execution, by any fraudulent execution, conveyance, or incumbrance whatsoever, he shall forfeit to the commonwealth the sum of one hundred pounds. Ib. ib. s. 8.

SEC. XXV. ALL fines and forfeitures inflicted by this act, shall be recovered by the auditor on behalf of the commonwealth, by motion in the General Court with costs, on giving ten days previous notice. *Provided always*, That upon a prosecution instituted for any fine or forfeiture inflicted by this act, a jury shall be impanelled to try the facts if it shall be desired by the party prosecuted. Ib. ib. s. 9.

SEC. XXVI. THE defendant or parties against whom judgment may have been obtained for any such fine or forfeiture, may on application to the Governor and Council, obtain a remission either of the whole or part, as to the Governor, with advice of Council, may seem reasonable and proper. Ib. ib. s. 10.

ALL and every act and acts, clauses and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

A BILL to reduce into one, the several Acts concerning the Auditor and Treasurer.

SECTION I. **B**E it enacted by the General Assembly, That there shall be one auditor for public accounts, to be chosen from time to time, as a vacancy may happen, by joint ballot of both Houses of Assembly, and to continue in office until removed by the joint vote of both the said houses, or by the Executive during the recess of the Assembly. And where any person so appointed, shall refuse to act, shall resign, or die during the recess of Assembly, it shall be lawful for the Governor, with the advice of the Council of State, to appoint some other fit and able person to act in his stead, until the next meeting of the General Assembly. The auditor so appointed shall not be capable of acting until he shall have taken the oath of fidelity to the commonwealth, and also an oath impartially and honestly to execute the duties of his office; which oath shall be taken before the judge of the High Court of Chancery, or either of the judges of the General Court, and by him shall be certified to his next succeeding court, and entered of record. The auditor now in office by former appointment, is hereby continued therein.

SEC. II. IT shall be the duty of the auditor, assisted by two clerks, to examine, state, settle, and audit all accounts, claims, or demands whatsoever, against

the public, arising under any law or resolution of the General Assembly; and to grant to every public claimant, authorized by law to demand the same, a warrant on the treasurer for the sum due, signed with his own hand and name, and attested in the hand and name of one of his clerks, making due entry and register of all his daily proceedings in books for that purpose, and carefully arranging, filing, and preserving in his office, all accounts, receipts, vouchers, and papers, touching the same. The auditor on the last day of September in every year, shall transfer the balances to a new account, to be annually opened by him on the first day of October. There shall also be an account stated against the treasurer of the commonwealth.

SEC. III. IT shall be the duty of the auditor, to call upon and proceed against all public debtors, for the balances due to the public.

SEC. IV. IT shall and may be lawful for the auditor on behalf of the commonwealth, to move for judgments, on any day during the sitting of the General Court, against any person or persons indebted to the public, and against any person or persons indebted to the public by duty-bonds, in the General Court or county court of Henrico, on giving ten days previous notice thereof, and thereupon to issue executions, and send the same to the proper officer; the charges of giving which notice being first paid by the public, shall be recovered of the person against whom such execution issued, in the same court and in the same manner as debts due to the public are allowed to be recovered; and on such executions the clerk shall endorse "no security to be taken."

SEC. V. ANY person hereafter appointed auditor, shall give bond with such security as shall be approved by the Governor, with the advice of Council, in the sum of ten thousand pounds, payable to the said Governor, or his successors, in trust, for the use of the commonwealth, conditioned for the faithful discharge of the duties of his office; which bond shall be recorded in the General Court.

SEC. VI. WHERE the auditor acting according to his discretion and judgment, shall disallow, or abate any article of demand against the commonwealth, and any person shall think himself aggrieved thereby, he shall be at liberty to petition the High Court of Chancery, or the District Court, holden at the city of Richmond, according to the nature of his case, for redress, and such court shall proceed to do right thereon; and a like petition shall be allowed in all other cases, to any other person who is entitled to demand against the commonwealth, any right in law or equity. The chief clerk of the auditor, shall, in case of the sickness of the auditor, perform the duties of his office.

SEC. VII. THE public treasurer may continue in office without re-election, until the end of the session of General Assembly next after one year from the time of his appointment shall have expired. On his first election, before he shall have power to act, he shall give bond to the Governor, with securities to be approved by the Council of State, in the penalty of four hundred thousand pounds, payable to the commonwealth, with condition that he will faithfully account for all monies and other things which shall come to his hands in virtue of his office, and perform all other duties thereof; and shall take an oath to the same purpose, and give assurance of fidelity to the commonwealth, before some court of record, or before a judge or justice thereof; the administration of which oaths, or the certificate thereof, shall be recorded in such court. When the office shall become vacant, during the recess of the General Assembly, the Governor, with the advice of the Council of State, shall appoint a successor, to act until such time as he, or another shall be legally elected. Upon a motion made to the General Court, by a succeeding treasurer, on behalf of the commonwealth, whereof more than ten days notice in writing shall have been given to the obligors, judgment may be awarded for the penalty of the said bonds, to be discharged by payment of so much as a jury, to be impanelled instantly, for trial of the issue if an issue be joined, or to enquire of damages if the defendants make default, shall find to be due by breach of the condition aforesaid, with costs. The treasurer in books provided at the public expense, shall state the accounts of money by him received for public taxes, and impositions, and paid in pursuance of acts and votes of the General Assembly, in such a manner as that the nett produce of the whole revenue, as well as of every branch

thereof, and the amount of disbursements, in discharge of the several demands, may distinctly appear, and lay the said accounts from time to time, and all his other transactions, before the General Assembly. And if he divert or misapply any of the public treasure, being convicted thereof, upon such prosecution as is before prescribed, he shall not only be adjudged to pay double the money so found to have been diverted or misapplied to the use of the commonwealth, but shall thereby be rendered incapable of any office of public trust.

SEC. VIII. IT shall not be lawful for the treasurer to pay or receive any money on account of the public, but on warrant or certificate from the auditor, unless in cases where any future act of Assembly shall in express words, and not by inference or implication only, declare that in that particular case it is to be understood as the intention that the claim specified by such act shall not be audited in the regular course, save only that the salary of the said auditor, together with the accounts for the expenses of the office for fuel, blank books, paper, presses for the preservation of the books and papers, and other implements necessary for the use of the office, shall be examined and certified for payment to the treasurer by the Governor and Council.

SEC. IX. THE Executive shall have the controul and superintendence of the auditor's and treasurer's offices respectively, as the same are now established by this act, with power to remove the auditor for misbehaviour or neglect of duty, and to supply any vacancy in the said office during the recess of Assembly, subject to their approbation. A committee of the Executive to be by them appointed, shall also have power, and is required, that proper checks may be provided, to visit and examine the said offices once in three months at least, or oftener, and shall report to the Governor in writing under their hands, the situation of the same, which report shall be by him laid before the Board, and entered in their proceedings; and thereupon it shall be lawful for the Executive to direct such correspondent changes in the business of the said offices, as they shall deem necessary for the better conducting the same.

SEC. X. ALL instructions by the Executive in pursuance of the powers hereby vested in them, shall be executed; any law to the contrary notwithstanding.

ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

A BILL for reducing into one the several Acts, concerning the Land-Office; ascertaining the Terms and Manner of granting waste and unappropriated Lands; for settling the Title and Bounds of Lands; directing the mode of proceffioning; and and prescribing the Duty of Surveyors.

SECTION I. **B**E it enacted, That all grants of lands shall issue from the land-office in manner and form herein after mentioned:

SEC. II. A register of the said land-office shall be appointed from time to time by joint ballot of both Houses of Assembly, who shall give bond with sufficient security to the Governor or first Magistrate of this commonwealth, in the penalty of current money; shall hold his office during good behaviour, and shall have power to appoint a deputy and clerks to assist in executing the business of the said office, but shall nevertheless reside there himself.

May 1779.
ch. 13. s. 1.

SEC. III. IF any vacancy shall happen by the death, resignation, or removal of a register during the recess of the General Assembly, the Governor or first Magistrate of the commonwealth, by and with the advice of the Council, may ap-

1b. ib.

point some other person, giving bond and security in like manner, to act as register of the said office until the end of the next session of assembly.

May 1779 ch.
13. s. 1.

SEC. IV. ALL copies of the records and other papers now being, or which shall hereafter be in the said office, including those which have been removed from the office of the late proprietor of the Northern Neck, duly attested by such register, shall be as good evidence as the originals would be.

1785. ch. 42.

SEC. V. *AND be it enacted*, That any person may acquire title to so much waste and unappropriated land lying within this commonwealth, on the eastern waters as he shall desire to purchase, on paying the consideration of twenty-five pounds for every hundred acres, which consideration may be paid in specie, or in auditor's warrants, or audited certificates, and so in proportion for a greater or smaller quantity, and obtaining certificate from the auditor of public accounts in the following manner: The consideration money shall be paid into the hands of the treasurer, who shall give to the purchaser a receipt for the payment, specifying the purpose it was made for, which being delivered to the auditor, he shall give to such person a certificate thereof, with the quantity of land he or she is entitled to, and upon lodging the same in the land-office, the register thereof shall grant to such person or persons, his or their heirs or assigns, a printed warrant under his hand and the seal of his office, specifying the quantity of land and the rights upon which it is due, authorizing any surveyor duly qualified according to law to lay off and survey the same, and shall regularly enter and record in the books of his office, all such certificates and the warrants issued thereupon, which warrants shall be always good and valid until executed by actual survey, or exchanged in the manner herein after directed.

May 1779.
ch. 13. s. 6.

Oct. 1783. ch.
32. s. 1.

SEC. VI. EVERY person who shall hereafter desire to become a surveyor, shall be nominated by the court of his county, examined and certified able by the President and Professors of William and Mary college, and if of good character, commissioned by the Governor, with a reservation in such commission to the said Professors, for the use of the college, of one sixth part of the legal fees that shall be received by such surveyor, for the yearly payment of which, he shall give bond with sufficient security to the President and Masters of the said college; he shall hold his office during good behaviour, and before he shall be capable of entering upon the execution of his office, shall, before the court of the same county, take an oath and give bond with two sufficient securities, to the Governor, and his successors, in such sum as he, with advice of Council, shall, have directed, for the faithful execution of his office. All deputy surveyors shall be recommended by their principals, to the court of the county of which such principal may be surveyor; the court shall thereupon appoint and direct one or more fit persons to examine into the capacity, ability, and fitness of the person or persons so recommended, and upon a certificate of such examination and report of the capacity, ability, and fitness of the person or persons so recommended, the said court is hereby empowered and directed to appoint him or them, to act as deputy or deputies, for whose conduct in every respect touching his office, the principal surveyor shall be answerable; and all deputies so appointed, shall have power and authority to act and do in all things, and to every intent and purpose as the principal surveyor, except in cases otherwise provided by this act; and shall thereupon be entitled to one half the fees received for services performed by them, respectively, after deducting the proportion thereof due to the college. If any principal surveyor shall fail to nominate a sufficient number of deputies to perform the services of his office in due time, the court of the county shall direct what number he shall nominate, and in case of failure shall nominate for him. And if any deputy surveyor, or any other on his behalf, and with his privity, shall pay or agree to pay any greater part of the profits of his office, sum of money in gross, or other valuable consideration, to his principal for his recommendation or interest in procuring the deputation, such deputy and principal shall be thereby rendered forever incapable of serving in such office.

Id. ib.

SEC. VII. EVERY person having a land-warrant, and being desirous of locating the same on any particular waste and unappropriated lands, shall lodge such warrant with the chief surveyor of the county wherein the said lands or the greater part of them lie, who shall give a receipt for it if required. The party shall direct the location thereof so specially and precisely as that others may be enabled with

certainty to locate other warrants on the adjacent residuum; which location shall bear date the day on which it shall be made, and shall be entered by the surveyor in a book to be kept for that purpose, in which there shall be left no blank leaves or spaces between the different entries.

SEC. VIII. AND if several persons shall apply with their warrants at the office of any surveyor at the same time, to make entries, they shall be preferred according to the priority of the dates of their warrants, but if such warrants be dated on the same day, the surveyor shall settle the right of priority between such persons by lot. Otober 1783, ch. 32.

SEC. IX. AND every surveyor shall, at the time of making entries for persons not being inhabitants of his county, appoint a time for surveying their land, and give notice thereof in writing to the persons making the same; and if on such application at his office, the surveyor shall refuse to enter such location, under pretence of a prior entry for the same lands made by some other persons, he shall have a right to demand of the said surveyor a view of the original of such prior entry in his book, and also an attested copy of it. Ib. ib.

SEC. X. ANY chief surveyor having a warrant for lands, and desirous to locate the same within his own county, shall enter such location with the clerk of the county, who shall return the same to his next court, to be there recorded; and the said surveyor shall proceed to have the survey made as soon as may be, or within six months at farthest, by some one of his deputies, or if he hath no deputy, then by any surveyor or deputy surveyor of an adjacent county, and in case of failure, his entry shall be void, and the land liable to the entry of any other person. Ib. ib.

SEC. XI. EVERY chief surveyor shall proceed with all practicable dispatch, to survey all lands entered for in his office, and shall, if the party live within his county, either give him personal notice of the time at which he will attend to make such survey, or shall publish such notice by fixing an advertisement thereof on the door of the courthouse of the county, on two several court days; which time, so appointed, shall be at least one month after personal notice given, or after the last advertisement so published; and if the surveyor shall accordingly attend, and the party, or some one for him, shall fail to appear at the time, with proper chain carriers, and a person to mark the lines, if necessary, his entry shall become void, the land thereafter subject to the entry of any other person, and the surveyor shall return him the warrant, which may, notwithstanding, be located anew upon any other waste or unappropriated lands, or again upon the same land where it hath not in the mean time been entered for by another person. Ib. ib.

SEC. XII. AND whereas many inconveniencies have arisen from the inattention of surveyors to the variation of the magnetic needle, in re-surveying lands which were formerly surveyed, when the variation was very different from what it is now, and many mistakes and much confusion may arise in comparing future surveys with the present: For remedy whereof, *Be it enacted*, That every surveyor shall, under the penalty of five pounds, return all his or their original or new surveys, and protract and lay down their plats by the true, and not by the artificial or magnetic meridian, and shall moreover express and declare, in or on the plat and return of each survey, by him or them taken or made, the true quantity or degree of the variation aforesaid, and whether it be east or west. Feb. 1772. c. 12, s. 1.

SEC. XIII. *PROVIDED* always, That when any surveyor shall be called upon or ordered to re-survey any lands, that may have been surveyed before the first day of June, in the year of our Lord, one thousand seven hundred and seventy-three, such surveyor shall or may re-survey such lands according to the mode of surveying by the magnetic meridian, but shall, nevertheless, under the penalty aforesaid, return and certify, in his plat, the quantity or degree of the variation of the magnetic needle from the true meridian at the time of making such re-survey, and shall also, in the said plat and return, certify (where the same can be done) the quantity or degree of variation between the original lines of such former survey from the true meridian aforesaid. Ib. ib. s. 2.

Feb. 1772.
c. 12, s. 2.

SEC. XIV. THE penalty of five pounds aforementioned, may be recovered by any person or persons, who shall sustain any damage by the surveyor's failing to comply with the directions aforesaid, who will inform or sue for the same, by action of debt, bill, plaint, or information, in any court of record within this commonwealth.

Oct. 1783.
ch. 82.

SEC. XV. WHERE the chief surveyor doth not mean to survey himself, he shall immediately after the entry made, direct a deputy surveyor to perform the duty, who shall proceed as is before directed in the case of the chief surveyor.

Ib. ib.

SEC. XVI. THE persons employed to carry the chain on any survey, shall be sworn by the surveyor, whether principal or deputy, to measure justly and exactly, to the best of their abilities, and to deliver a true account thereof to such surveyor; and shall be paid for their trouble by the party for whom the survey is made.

Ib. ib.

SEC. XVII. THE surveyor, at the time of making the survey, shall not leave any open lines, but shall see the same bounded plainly by marked trees, except where a water course or ancient marked line shall be the boundary, and shall make the breadth of each survey at least one third of its length in every part, unless where such breadth shall be restrained on both sides by mountains unfit for cultivation, by water courses, or the bounds of lands before appropriated.

Ib. ib.

SEC. XVIII. THE surveyor shall, as soon as it can conveniently be done, and within three months at farthest after making the survey, deliver to his employer, or his order, a fair and true plat and certificate of such survey, the quantity contained, the hundred (where hundreds are established in the county wherein it lies) the courses and descriptions of the several boundaries, natural and artificial, ancient and new, expressing the proper names of such natural boundaries where they have any, and the name of every person whose former lines made a boundary, and also the nature of the warrant and rights on which such survey was made; and shall at the same time re-deliver the said warrant to the party.

Ib. ib.

SEC. XIX. THE said plats and certificates shall be examined and tried by the said principal surveyor whether truly made and legally proportioned as to length and breadth, and shall be entered within three months at farthest, after the survey is made in a book well bound, to be provided by the court of his county at the county charge; and he shall in the month of July every year, return to the President and Professors of William and Mary college, and also to the clerk's office of his county court, a true list of all surveys made by him or his deputies in the preceding twelve months, with the names of the persons for whom they were respectively made, and the quantities contained in each, there to be recorded by such clerk; and no person shall hereafter hold the offices of clerk of a county court and surveyor of a county, nor shall a deputy in either office act as deputy or chief in the other.

Ib. ib.

SEC. XX. ANY surveyor, whether principal or deputy, failing in any of the duties aforesaid, shall be liable to be indicted in the General Court, and punished by amercement or deprivation of his office, and incapacity to take it again, at the discretion of a jury; and shall moreover be liable to any party injured, for all damages he may sustain by such failure.

Ib. ib.

SEC. XXI. EVERY county court shall once in every year, and oftener if they see cause, appoint two or more capable persons to examine the books of entries and surveys in possession of their chief surveyor, and to report in what condition and order the same are kept; and on his death or removal shall have power to take the same into their possession, and deliver them to the succeeding chief surveyor.

SEC. XXII. IF any surveyor or other person who may be in possession of any such book of entries or surveys, shall refuse or neglect to produce such book to the persons who by any court may be appointed to examine the same, or to deliver up the same agreeable to the order of such court to any chief surveyor who has succeeded or may succeed any surveyor dead, or removed from office, such surveyor or other person, shall, for every such refusal or neglect, forfeit and pay the sum of ten pounds, one half to the use of the county, and the other half to the use of the person suing for the same, to be recovered by action of debt, plaint, or information.

1787. ch 52.
s. 5.

SEC. XXIII. AND for preventing hasty and surreptitious grants and avoiding controversies and expensive law suits; *Be it enacted*, That no surveyor shall, at any time within twelve months after the survey made, issue or deliver any certificate, copy, or plat of land by him surveyed, except only to the person or persons for whom the same was surveyed, or to his, her, or their order, unless a caveat shall have been entered against a grant to the person claiming under such survey, to be proved by an authentic certificate of such caveat, from the clerk of the court where such caveat shall be entered, produced to the surveyor; and if any surveyor shall presume to issue any certificate, copy, or plat as aforesaid, to any other than the person or persons entitled thereto, every surveyor so offending, shall forfeit and pay to the party injured, his or her legal representatives or assigns, thirty pounds for every hundred acres of land contained in the survey whereof a certificate, copy, or plat, shall be so issued, or shall be liable to the action of the party injured at the common law, for his or her damages, at the election of the party.

Oct. 1783.
ch. 32.

SEC. XXIV. IT shall not be lawful for any surveyor to admit an entry for any land without a warrant from the register of the land-office.

May 1779.
ch. 13. s. 3.

SEC. XXV. EVERY person for whom any waste or unappropriated lands shall be so located and laid off, shall within twelve months at farthest after the survey made, return the plat and certificate of the said survey into the land-office, together with the warrant on which the lands were surveyed, and may demand of the register a receipt for the same; and on failing to make such return within twelve months as aforesaid, or if the breadth of his plat be not one third of its length, as before directed, it shall be lawful for any other person to enter a caveat in the said land-office, against the issuing of any grant to him, expressing therein for what cause the grant should not issue; or if any person shall obtain a survey of lands to which another hath by law a better right, the person having such better right, may in like manner, enter a caveat to prevent his obtaining a grant until the title can be determined; such caveat also expressing the nature of the right on which the plaintiff therein claims the said land.

Ib. ib.

SEC. XXVI. THE person entering any caveat shall take from the register of the land-office a certified copy thereof, which within ——— days thereof he shall deliver to the clerk of the court of that district or county in which the land lies; and shall moreover take from the surveyor of the county, or from the register's office, a certified copy of the survey and plat, which within thirty days from the entering such caveat, he shall in like manner deliver to the clerk of the court where the suit shall be instituted; and in case of failure in either instance, the caveat shall be void.

Ib. Ib.

1787. ch. 10,
s. 10.

SEC. XXVII. THE clerk of such court on receiving the same, shall enter such copy of the caveat in a book to be kept by him for that purpose, and shall thereupon issue a summons, reciting the cause for which such caveat is entered, and requiring the defendant to appear on the first day of the next succeeding District Court, or quarterly session if the suit be instituted in a county court, and defend his right; and on such process being returned executed, the court shall proceed to determine the right of the cause in a summary way, without pleadings in writing, impannelling and swearing a jury for the finding of such facts as are material to the cause, and are not agreed by the parties; and shall thereupon give judgment, on which no appeal or writ of error shall be allowed; a copy of such judgment, if in favor of the defendant, being delivered into the land-office, shall vacate the said caveat; and if not delivered within three months, a new caveat may for that cause be entered against the grant; and if the said judgment be in favor of the plaintiff, upon delivering the same into the land-office, together with a plat and certificate of the sur-

May 1779.
ch. 13 s. 3.

1787. ch. 10.

vey, and also producing a legal certificate of new rights on his own account, he shall be entitled to a grant thereof; but on failing to make such return and produce such certificates within six months after judgment so rendered, it shall be lawful for any other person to enter a caveat for that cause against issuing the grant; upon which subsequent caveats, such proceedings shall be had as are before directed in the case of an original caveat; and in any caveat where judgment shall be given for the defendant, the court shall award him his costs, and may compel the plaintiff in any caveat, if they think fit, to give security for costs, or on failure thereof, may dismiss the suit; and in case the plaintiff in any such caveat shall recover, the court may, if they think it reasonable, award costs against the defendant: *Provided*, That where any lands surveyed upon a land warrant as aforesaid, shall in consequence of any judgment upon a caveat, be granted to any other person than the party claiming under such warrant, such party shall be entitled to a new warrant from the register for the quantity of land so granted to another, reciting the original warrant and rights, and the particular cause of granting the new warrant.

May 1783.
ch. 39. s. 4. SEC. XXVIII. *PROVIDED* always, That no caveat shall be entered, unless the person at the time of entering such caveat, shall file with the register or his deputy, an affidavit that such caveat is really and *bona fide* made with an intention of procuring the lands for the person in whose name such caveat is entered, and not in trust for the benefit of the person against whom such caveat is entered; and all caveats entered contrary to the directions of this act, shall be absolutely null and void. And wherever a summons upon a caveat shall either not be returned at all, or be returned not executed, the caveat upon which such summons shall have issued, shall be dismissed with costs; unless the court, before whom such caveat shall be depending, shall be satisfied that the said summons not having been executed, did not proceed from the neglect of the party who entered such caveat.

May 1782. c.
49. s. 4. SEC. XXIX. AND whereas in some cases plats and certificates of survey have not been recorded in the surveyor's office nor returned to the register's office within the times respectively limited by law, and it is doubtful whether the lands held under such surveys are not still liable to be caveated: *Be it therefore enacted*, That where no caveat shall be entered before the said duties respectively shall be performed, such lands shall not thereafter be liable to forfeiture on account of such failure.

May 1783.
ch. 39. s. 5. SEC. XXX. THE clerks of the several district and county courts, within one month after the end of every session of the said courts, shall return to the register of the land-office an attested list of all caveats that were dismissed or determined at the said preceding court, which the register shall compare with the caveat book; and in all cases where he shall find that the caveats have been dismissed, or determined in favor of the defendant, he shall make out grants for such lands as if no such caveats had been entered in his office.

Oct. 1784. ch.
51. s. 4. SEC. XXXI. AND whereas, in the cases where surveys are returned into the land-office, it may happen that caveats will be entered against some of the surveys, and the person in whose favor the surveys are made may lose the benefit of the surveys by the event of the caveat: To remedy which,

Ib. ib. s. 5. SEC. XXXII. *BE it enacted*, That whensoever upon a caveat, the court shall determine in favor of the caveator, all the fees he shall pay into the register's office, in consequence of such determination, in order to obtain his patent, shall be by the register paid to the person who in the first instance upon the return of the survey hath been compelled to pay the fees.

May. 1779.
ch. 13. s. 3. SEC. XXXIII. AND to prevent confusion and mistakes in the application, exchange, or renewal of warrants, the register of the land-office is hereby directed and required to leave a sufficient margin in the record books of his office, and whenever any warrant shall be exchanged, renewed, or finally carried into execution by a grant, to note the same in the margin opposite to such warrant, with folio references to the grant, or other mode of application; and also to note in the

margin opposite to each grant, the warrant or warrants, and survey on which such grant is founded, with proper folio references to the books in which the same are recorded.

SEC. XXXIV. ALL persons, as well foreigners as others, shall have right to assign or transfer warrants, or certificates of survey for lands; and any foreigner purchasing warrants for lands, may locate and have the same surveyed, and after returning a certificate of survey to the land-office, shall be allowed the term of eighteen months, either to become a citizen, or to transfer his right in such certificate of survey, to some citizen of this, or any other of the United States of America. May 1779.
ch. 13. s. 3.

SEC. XXXV. WHEN any grant shall have been finally completed, the register shall cause the plat and certificate of survey on which such grant is founded, to be exactly entered and recorded in well bound books, to be provided for that purpose at the public charge. Ib. ib.

SEC. XXXVI. DUE returns of the several articles herein before required, being made into the land-office, the register, within not less than six, nor more than nine months, shall make out a grant by way of deed poll, to the party having right, in the following form:—"A. B. Esquire, Governor of the commonwealth of Virginia, to all to whom these presents shall come, greeting: Know ye, that in consideration of military service performed by C. D. to this commonwealth, &c. (or in consideration of military service performed by C. D. to the United American States, or in consideration of the sum of _____ current money, paid by C. D. into the treasury of this commonwealth, &c.) there is granted by the said commonwealth unto the said C. D. a certain tract or parcel of land, containing _____ acres, lying in the county of _____, and hundred of _____, &c. (describing the particular bounds of the land, and the date of the survey upon which the grant issues) with it's appurtenances; to have and to hold the said tract or parcel of land, with it's appurtenances, to the said C. D. and his heirs forever. In witness whereof, the said A. B. Governor of the commonwealth of Virginia, hath hereunto set his hand, and caused the seal of the said commonwealth to be affixed, at _____, on the _____ day of _____, in the year of our Lord, _____, and of the commonwealth _____. A. B." Ib. ib.

SEC. XXXVII. UPON which grant the said register shall endorse that the party hath title to the same; whereupon it shall be signed by the Governor, sealed with the seal of the commonwealth, and then entered of record at full length, in good and well bound books to be provided for that purpose at the public expense, and kept by the register; and being so entered, shall be certified to have been registered, and then be delivered, together with the original certificate of survey, to the party or his order. Ib. ib.

SEC. XXXVIII. WHERE a grant shall be made to the heir or assignee of a person claiming under any of the before-mentioned rights, the material circumstances of the title shall be recited in such grant. Ib. ib.

SEC. XXXIX. THE proprietor of any high lands to which any swamps, marshes, or sunken grounds are contiguous, if an infant, *feme covert*, beyond sea, or under any other legal disability, shall have a right of pre-emption to enter for and complete his or her title thereto, at any time within three years after such disability shall be removed. 1784. ch. 10,
s. 4.

SEC. XL. AND whereas, through the ignorance, negligence, or fraud of surveyors, it may happen that divers persons now do or may hereafter hold within the bounds expressed in their patents or grants, greater quantities of land than are therein mentioned; for quieting such possessions, preventing controversies, and doing equal justice to the commonwealth and its citizens: *Be it enacted*, That it May 1779.
ch. 13. s. 4.

shall not be lawful for any person to enter for, survey, or take up any parcel of land held as surplus in any patent or grant, except during the lifetime of the patentee or grantee, and before any transference, conveyance, or other alienation shall have been made of the lands contained in such patent or grant, and until the party intending to enter and take up the same, shall have given one full year's notice to such patentee or grantee of such his intention; and in case such patentee or grantee shall not, within the year, obtain rights and sue forth a patent for the surplus land by him held, it shall be lawful for the person who gave notice as aforesaid, upon producing a certificate from the clerk of due proof of such notice before the court of the county wherein such patentee or grantee resides, and to demand from the register of the land-office, a warrant to the surveyor of the county wherein such lands lie, to re-survey at the proper charge of the person obtaining such warrant, the whole tract within the bounds of the patent or grant; and upon such person's returning into the land-office a plat and certificate of such re-survey, together with the warrant on which it is founded, and obtaining and producing new rights for all the surplus land found within the said bounds, he may sue forth and obtain a new grant for such surplus, which shall be granted to him in the same manner as waste or unappropriated lands; but the former patentee or grantee may assign such surplus land in any part of his tract as he shall think fit, in one entire piece, the breadth of which shall be at least one third of the length, and in such new grant there shall be a recital of the original patent or grant, the re-survey of which the surplus was ascertained, and of other material circumstances.

May, 1779. SEC. XLI. *PROVIDED* always, That if upon notice given as aforesaid, ch. 13. s. 5. the original patentee or grantee, shall, within the year, re-survey his tract, and it be thereupon found that he hath no more than the quantity of land expressed in his patent or grant, with the allowance herein after mentioned, the party giving such notice shall be liable to pay all charges of such re-survey, for which he shall give sufficient security to the said patentee or grantee, at the time of the notice, otherwise such notice shall be void and of no effect; and moreover, for his unjust vexation, shall also be liable to an action upon the case, at the suit of the party grieved; and that in all such new surveys, the patentee or grantee shall have an allowance at the rate of five acres in every hundred, for the variation of instruments.

Ib. s. 6. SEC. XLII. WHERE any person shall find any mistake or uncertainty in the courses or description of the bounds of his land, and desires to rectify the same, or shall hold two or more tracts of land adjoining to each other, and is desirous to include them in one grant, he may, in either case, having previously advertised his intentions, and the time of application, at the door of the courthouse, on two several court days, and also having given notice to the owners of the adjoining lands, present a petition to the court of the county in which the lands lie, reciting the nature and truth of the case, and such court may, and is hereby empowered to order the surveyor of their county to re-survey such lands, at the charge of the party, according to his directions, and the original or authentic title papers, taking care not to intrude upon the possessions of any other person, and to return a fair plat and certificate of such re-survey into the said court, to be examined and compared with the title papers; and if such court shall certify, that in their opinion, such re-survey is just and reasonable, the party may return the same, together with his material title papers, into the land-office, and demand the register's receipt for them; and in case any caveat shall be entered against his obtaining a new grant upon such re-survey, the same proceedings shall be had therein as is directed in the case of other caveats, and the court upon hearing the same, may either prohibit such new grant, or vacate the caveat, as to them shall seem just; but if no caveat shall be entered within six months after such return, or if a caveat shall be entered and vacated as aforesaid, the party upon producing new rights for whatever surplus land appears to be within the bounds, more than the before-mentioned allowance of five acres for every hundred, may sue out and obtain a new grant for such lands thereupon, in which shall be recited the dates and other material circumstances of the former title, and the title papers shall be delivered by the register to the new owner.

Ib. ib. SEC. XLIII. THE judges of the General Court, shall, once in every year, and oftener if they see cause, appoint two or more capable persons, to examine the record books and papers in the land-office, and report in what condition and order they are kept, who shall compare all warrants of survey returned to the said office executed, with the list of those issued therefrom, and cancel all such as shall appear to have been properly executed or exchanged; an account of which shall be

kept by the register, charging therein those issued, and giving credit for those cancelled as aforesaid; but no original warrant shall be burnt or otherwise destroyed, but shall be regularly filed in the land-office with the title papers. 1789. ch. 43. s. 1.

SEC. XLIV. NO original plat and certificate of survey, once received and carried into grant, shall thereafter be delivered out of the land-office, but shall remain amongst the other evidences of the title. Ib. ib.

SEC. XLV. THE treasurer for the time being, shall annually enter into bond, with sufficient security, to the Governor, in the sum of _____ pounds, for the just and faithful accounting for according to law, all money which shall come to his hands by virtue of this act. May. 1779. ch. 14. s. 6.

SEC. XLVI. THE register of the land-office shall account for with the auditor, and pay regularly into the treasury at the end of every six months, all fees* by him received from time to time, making oath that the fees so accounted for, are the whole profits accruing from the said office, so far as he knows or believes, up to the date of such account; and moreover his accounts of fees received, shall be fairly stated, and compared by the auditor with the books of his office, before the account shall be passed. If the register of the land-office shall at any time fail to account, according to the directions of this act, for the space of six months, he shall forfeit and pay the sum of ten thousand pounds, to be recovered in the name of the Governor or Chief Magistrate for the time being, in any court of record by the auditor, on thirty days previous notice; and the *onus probandi* shall lie on the defendant. 1784. ch. 51. s. 2.

SEC. XLVII. ON receiving each survey into the register's office, the fees established by law, that will accrue on the same, including the issuing of the grant thereupon, shall be paid; and if the register shall credit any person, he shall account for the fees so credited in the same manner as if they had been received. Ib. ib.

SEC. XLVIII. *AND be it further enacted*, That he or she be adjudged a felon and not have the benefit of clergy, who shall steal, or by other means take from the possession or custody of another, any warrant from the register of the land-office of this commonwealth, to authorize a survey of waste and unappropriated lands; or who shall alter, erase, or aid or assist in the alteration or erasure of any such warrant; or forge or counterfeit, or aid, abet, or assist in forging or counterfeiting any written or printed paper, purporting to be such warrant; or who shall transfer to the use of another, or for his or her own use, present or cause to be presented to the register for the exchange thereof, or to a surveyor for the execution thereof, any such warrant or paper purporting to be such warrant, knowing the same so transferred or presented for the exchange or the execution thereof, to be stolen, or by other means taken from the possession or custody of another, or altered, or erased, or forged or counterfeited: and he or she shall be adjudged a felon and not have the benefit of clergy, who shall falsely make or counterfeit, or aid, abet, or assist, in falsely keeping or counterfeiting any instrument stamping an impression in the figure and likeness of the seal officially used by the register of the land-office, or who shall have in his or her possession or custody such instrument, and shall wilfully conceal the same, knowing it to be falsely made or counterfeited. May 1779. ch. 13. s. 6.

SEC. XLIX. *AND* whereas it is reasonable that persons summoned to attend as witnesses on surveys, to be made under an order either of the High Court of Chancery, General Court, District Court, county or corporation courts, should be free from arrests during such their attendance: *Be it therefore enacted*, That all and every such witness or witnesses, as well in coming to, or returning from, as during their attendance at such survey, shall be privileged and free from arrests in like manner as witnesses attending on such courts. 1786. ch. 14. s. 1.

* See Officers Fee Bill.

SEC. L. ON application by the party, or surveyor, acting under the order of any such court, the clerk of the court from whence the order for a survey shall issue, may and shall grant one or more subpoenas, as the case may require, commanding the attendance of the witness or witnesses, at such time and place as shall by the person requiring the said subpoena or subpoenas to issue, be directed. And if any person duly served with such subpoena, shall fail to attend at the time and place therein mentioned, he or she so failing, shall be liable to the same penalty and to the like action for damages, as in case of non-attendance upon a trial in court after having been regularly summoned thereto. *PROVIDED nevertheless,* That no person whatever attending upon any survey, by order of any court in virtue of any subpoena, shall be privileged from an arrest by original or other process, unless such person shall be actually a witness in the matter in such subpoena expressed, nor unless such subpoena shall have been first duly executed by a sworn officer, or by some other indifferent person who shall have made oath to the due execution thereof.

1787. ch. 23, s. 2. SEC. LI. WHENSOEVER any county court shall be so divided in the recommendation of a surveyor, that neither of the candidates shall be recommended, it shall be lawful for the high sheriff of such county and he is hereby required to vote in favor of one of those candidates between whom the court shall be divided.

1787 ch. 52, s. 2. SEC. LII. IT shall not be lawful for any county surveyor, hereafter to withhold from any person entitled to demand the same, a plat by him demanded; and every surveyor out of office, shall have the same remedy for fees due to him as is hereby given to the acting surveyors: *Provided,* That no surveyor shall be obliged to deliver a plat of land to any person or persons not resident within this state, before the fees for the same shall be paid, or such security given for the payment thereof, as to him shall be deemed sufficient.

1788. ch. 51. SEC. LIII. THE surveyor or surveyors of any county or counties from which a new county hath been taken, or hereafter shall be taken, shall, within one month after such division takes place, make out, and on application, deliver to the surveyor of the new county, attested copies of all entries made upon lands within such new county, on his books, and not surveyed, together with the warrants upon which they were founded; for which service he shall receive three-pence for every such attested copy, to be paid by the surveyor of the new county, upon receipt of the said attested copies. And in case any surveyor shall refuse or neglect to make out, or to deliver such attested copies of entries within the time aforesaid, or at the expiration of the said time, upon the application of the surveyor of the new county, he shall forfeit and pay the sum of fifty pounds, to be recovered by action of debt or information, in any court of record, by any person who will sue for the same; any law to the contrary notwithstanding.

Oct. 1783. ch. 32. s. 4. SEC. LIV. ALL persons who are now chargeable with any surveyors fees under the act of Assembly, intituled, "An act for regulating the fees of the register of the land-office, and for other purposes," or who shall hereafter become chargeable with any tobacco, for any of the services mentioned in this act, shall at their election discharge the same either in transfer tobacco notes or in specie, at the rate of twelve shillings and six-pence for every hundred pounds of gross tobacco.

Ib. ib. s. 5. SEC. LV. THE surveyor of every county shall hereafter cause to be set up in some public place in his office, and there constantly kept, a fair table of his fees, on pain of forfeiting one hundred pounds, which penalty shall be to the person or persons who shall inform or sue for the same. And if any surveyor who now is, or hereafter shall become entitled to fees under this or the said recited act, shall ask or demand of any person whatsoever, more than twelve shillings and six-pence per hundred for such tobacco fees, or shall ask or demand larger fees than are allowed by law, every person so offending shall forfeit and pay ten times the amount of the fees so charged, to the party or parties injured.

SEC. LVI. EVERY surveyor of lands, shall hereafter be resident in the county whereof he is surveyor, during the time he shall continue in office, under the penalty of forfeiting two hundred pounds current money, for every month he shall reside out of the same, unless detained by such business as the court of the county shall judge reasonable; one moiety shall be to the commonwealth for the better support of this government and the contingent charges thereof, and the other moiety to the informer. Oa. 1783. ch. 32. s. 5.

SEC. LVII. *PROVIDED always*, That the surveyors of the counties of Monongalia, Harrison, Randolph, and Ohio, shall not be accountable to the president and masters of William and Mary college, for any part of the fees which have accrued to them for services subsequent to the first day of January, one thousand seven hundred and eighty-eight, or shall hereafter accrue; and the bonds given by them for the yearly payment of one sixth part of their fees to the president and masters of the said college, shall be, and are hereby declared to be null and void, so far as relates to the fees which became due to them after the said first day of January, in the year last mentioned, or shall hereafter become due. 1787, ch. 95. s. 14.

SEC. LVIII. *PROVIDED nevertheless*, That each of the surveyors of the said counties of Monongalia, Harrison, Randolph, and Ohio, hereafter to be appointed, shall, within one month after he shall be required by the board of trustees of the Randolph academy, give bond with sufficient security, in a reasonable sum, for the yearly payment of one-sixth part of the fees, which shall become due to him, to the said trustees, for the use of the said academy; and in case any one of the said surveyors shall fail or refuse to give such bond and security, he shall forfeit and pay to the said trustees, the sum of one hundred pounds annually, to be recovered by motion in the court of the county of such surveyor, upon giving him ten days previous notice of such motion.

SEC. LIX. THE court of every county, at some court between the first day of June and the first day of September, which shall be in the year of our Lord one thousand seven hundred and ninety-five, and so between the first day of June and the first day of September in every fourth year thereafter, by order of court, shall direct the overseers of each county to divide their counties into so many precincts, as to them shall seem most convenient, for processioning every person's land in their respective counties, and to appoint the particular times between the last day of September and the last day of March then next coming, when such processioning shall be made in every precinct; and also to appoint two or more intelligent, honest freeholders, of every precinct, to see such processioning performed; and to take and return to the said overseers, an account of every person's land they shall procession, and of the persons present at the same, and what lands in their precinct they shall fail to procession, and the particular reasons of such failure; a copy of which order, shall be delivered by the clerk of every court, respectively, to the overseers, within fifteen days after the making thereof; and the overseers shall cause the same to be obeyed in every particular, and shall cause notice to be given at the most public places in their county, at least three weeks before the same is to be performed, of the persons and times appointed by them for processioning in each precinct; and the said overseers shall also cause the accounts returned by the freeholders, to be registered in particular books to be kept for that purpose by their clerk; and to prevent mistakes or omissions in such register, the overseers shall examine the same in presence of their clerk, after the same has been recorded, by comparing the register with the original returns; and such examination shall be had from time to time, after every return, at their next meeting after such return; and the overseers shall certify the same under their hands, in every register so by them examined and compared. 1748. ch. 1.

SEC. LX. AND that no person may pretend ignorance, the overseers are also to direct what precinct or precincts in their county, respectively, every particular freeholder thereof shall attend and perform the processioning as aforesaid. And if any county court shall fail to make such order as aforesaid, every justice of the peace of such county, shall forfeit and pay one thousand pounds of tobacco. And if any overseer shall fail to obey and execute such order, every overseer so failing, shall forfeit and pay five hundred pounds of tobacco. And any county court clerk failing to perform his duty as directed by this act, shall forfeit and pay one thousand pounds of tobacco. And if any other person not having law-

ful excuse (to be judged of by the county court) shall fail to perform his duty, as is herein before required, every person so failing shall forfeit and pay five hundred pounds of tobacco: One moiety of which several forfeitures shall be to the use of the poor of the county, and the other half to the informer, and may be recovered in any court of record within this commonwealth, having jurisdiction thereof.

SEC. LXI. *PROVIDED* always, That in any suit, information, or petition brought against an overseer of the poor, magistrate of a county, or any other person for any breach of this act, where the defendant shall give sufficient evidence to the court, where the suit or information shall be depending, that he was necessarily absent, or that, being present, he offered to do his duty pursuant to this act, in such case, the suit or information as to such defendant shall be dismissed.

SEC. LXII. ALL and every processioning the bounds of any persons lands at three several times heretofore made according to the directions of the laws then in force, or hereafter to be made pursuant to the directions of this act, shall be held, and is hereby declared to be sufficient to settle such bounds so as the same may never afterwards be altered; and every processioning made in pursuance of and conformable to the former laws, shall be, and is hereby declared to be one of the three times of processioning by this act held to be sufficient.

SEC. LXIII. WHEN any controversy shall hereafter happen between person's whose lands lie contiguous, about their respective bounds, and the owner or owners of such lands shall refuse to suffer the same to be processioned, in such case the freeholders appointed as aforesaid shall, within ten days after such refusal, certify the same under their hands to the overseers of the poor of the county wherein such lands shall lie, who shall return such certificate to the court from which the order for processioning issued at their next session; and such court shall thereupon order their surveyor with a jury to lay out the bounds in dispute at the charge of the party against whom the right to such bounds shall be determined, and to return such survey to the next court after the same shall be made; which return shall be recorded, and a copy thereof sent by the county court clerk, within fifteen days after such return, to the overseers of the poor of the county where the lands lie, and shall be by them caused to be registered in their book, which shall be kept for the purpose of entering the bounds of land.

SEC. LXIV. IF such lands shall happen to lie in two or more counties, then certificate as aforesaid shall be returned to the court of each county, and the court of that county in which the beginning of such controverted bounds shall lie, shall order their surveyor with a jury of their county to survey the whole bounds in dispute, and the sheriff of each county wherein the same shall lie, to attend the surveyor in their respective counties; and such survey shall be made, returned, recorded, and registered in the manner and at the charge of the party against whom the right to such bounds shall be determined. And all and every survey and surveys so as aforesaid made and registered, shall be held, deemed, and taken to be a sufficient processioning of such lands to all intents and purposes, as if the same had been done by and with the consent of the owner thereof.

1748. ch. 1.
s. 60.

SEC. LXV. AND every justice of peace, overseer of the poor, county court clerk, or other person failing in his duty, as herein before required, and not having lawful excuse, shall be liable to forfeit and pay the respective penalties herein before mentioned and laid on them, or any of them; to be recovered in the manner and to the uses aforesaid.

SEC. LXVI. *PROVIDED* always, That the processioning and settlement of the bounds of land held by any tenant for life only, shall not bar or conclude the heir in reversion or remainder, but such heir may at any time within six years after the death of such tenant, controvert the bounds as if no processioning or settlement had been made.

SEC. LXVII. THE proceffioning and settling the bounds of lands belonging to any person then being within the age of one and twenty years, *feme covert, non compos mentis*, imprisoned, or not resident within this commonwealth, shall not be conclusive to such person or persons, until six years after their respective incapacities or disabilities shall be removed or determined.

SEC. LXVIII. THE several penalties and forfeitures by this act laid, given or inflicted, shall and may be recovered with costs by action of debt, information, or petition in any court of record within this commonwealth wherein such penalty or forfeiture shall be cognizable. Oa. 1783. ch. 32. s. 7.

ALL and every act and acts, clauses and parts of acts within the purview of this act, shall be, and the same are hereby repealed: *Provided nevertheless*, That all rights, remedies, fines, penalties, and forfeitures incurred or accruing under any former act, shall remain in the same condition as if this act had not been made.

A BILL reducing into one Act, the several Acts concerning Forcible Entries and Detainers.

SECTION I. **B**E it enacted by the General Assembly, That none shall make any entry into any lands and tenements, or other possessions what-soever, but in case where entry is given by the law; and in such case not with strong hand, nor with multitude of people, but only in a peaceable and easy manner, and that none who shall have entered into the same in a peaceable manner, shall hold the same afterwards with force; and if any shall do to the contrary, on complaint thereof to any justice or justices of the peace, such justice or justices shall take sufficient power of the county, and go to the place where such force is made; and all the people of the county, as well the sheriff as others, shall be attendant upon the same justices, to go and assist them to arrest such offenders, upon pain of imprisonment and amercement, at the discretion of a jury. 1788. ch. 45.
1789. ch. 7.

SEC. II. BUT no warrant of forcible entry and detainer, or of forcible detainer, shall hereafter be granted, unless upon the oath or affirmation of the party praying the same.

SEC. III. THE name, or names, of the person or persons so charged, shall be inserted in every such warrant; and the sheriff or other officer to whom the same shall be directed, shall give reasonable notice, of at least three days, to such person, or persons, of the time and place of taking the inquisition. And no jury shall be sworn to enquire of any forcible entry or detainer, where such previous notice hath not been given.

SEC. IV. AND moreover, though such persons making such entries be present, or else departed before the coming of such justice or justices, notwithstanding, the said justice or justices in some convenient place, according to their discretion, shall have authority and power to enquire by the people of the same county, as well of them that make such forcible entries in lands and tenements, as of them who hold the same with force; and if it be found before any of them, that any doth contrary to this act, then the said or justice justices shall cause to be re-seized or to be re-possessed the lands and tenements so entered or holden as afore, and shall put the party so put out, in full possession thereof.

SEC. V. AND also when the said justice or justices make such enquiries as before, he or they shall make their warrants and precepts, to be directed to the sheriff of the same county, commanding him on behalf of the commonwealth, to

cause to come before him or them, fit persons to enquire of such entries; and if any sheriff be slack, and make not execution duly of the said precepts to him directed, to make such enquiries, he shall forfeit twenty-five pounds, recoverable before any court of record, as well by indictment or information, to be taken only for the commonwealth, as by bill at the suit of the party grieved, as well for himself as for the commonwealth, in which case one moiety of the said twenty-five pounds shall be to the commonwealth, and the other moiety, together with his costs and expences, shall be to the party suing.

SEC. VI. AND moreover mayors, aldermen, and serjeants of cities and boroughs, shall have in the said cities and boroughs, like power to remove such entries, and in other articles aforeaid, arising within the same, as the justices of peace and sheriffs in counties respectively have.

SEC. VII. BUT no restitution upon any indictment of forcible entry, or holding with force, shall be made to any, if the party indicted hath had the occupation, or hath been in quiet possession by the space of three whole years together, next before the day of such indictment so found, and his estate therein be not ended or determined; which the party indicted may alledge for stay of restitution, and restitution shall stay until that be tried, if the other will deny or traverse the same; and if the same allegation be tried against the party so indicted, then the same party so indicted, shall pay such costs and damages to the other party, as shall be assessed by the judges or justices before whom the same shall be tried.

SEC. VIII. TENANTS for term of years, and tenants by *elegit* of lands or tenements by them so holden, which shall be entered upon by force, or holden from them by force, shall have the same remedy as tenants of any estate of freehold or of inheritance.

ALL and every act, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

22d. Geo. 2d.
ch. 1. s. 63.

A BILL to prevent unlawful Hunting and Ranging.

SECTION I. **B**E it enacted, That if any person or persons, shall at any time shoot, hunt, or range upon the lands or tenements, or fish, or fowl in any creeks or waters included within the bounds of any other person or persons, without license first obtained of the owner of such lands, every such offender shall forfeit and pay twenty shillings for every such offence; to be recovered with costs, before any justice of the peace of the county where the offence shall be committed, by the informer, to his own use; in which information, the confession of the party accused, or the oath of one credible witness, shall be sufficient evidence. And where the owner of the land shall prosecute for any unlawful shooting, hunting, ranging, fishing, or fowling within his bounds, the oath of such owner shall be sufficient evidence to convict the offender; but in that case the penalty shall be paid to the overseer of the poor of the district wherein the offender resides, to the use of the poor of such district; and moreover every such offender shall be liable to the action of the party grieved, at the common law, for his or her damages.

1b. ib. s. 64.

SEC. II. IF any person shall be the third time convicted of any such offence as aforeaid, the justice of peace before whom such conviction shall be, over and above giving judgment for the aforeaid forfeiture, shall require such offender to enter into recognizance, with one or more sufficient sureties, to the Governor, for the time being, and his successors, in the penalty of ten pounds current money, for his good behaviour, during one whole year from thence next following; or in case of refusal so to do, shall commit him to the common gaol, there to remain until he give such security, or until the expiration of one month. And if after

such surety given, such offender shall be convicted of shooting, hunting, ranging, fishing, or fowling unlawfully as aforesaid, within the time in his recognizance limited, such offence shall be breach of the good behaviour, and the penalty of his recognizance shall be forfeited to the overseers of the poor, for the use of the poor of the district wherein such conviction shall be.

ALL and every act or acts, within the purview of this act, shall be, and the same are hereby repealed.

A BILL to reduce into one, the several Acts for the better securing the Payment of Rents, and preventing the fraudulent Practices of Tenants; and to regulate the Practice of suing out and prosecuting Writs of Replevin.

SECTION I. **B**E it enacted by the General Assembly, That where any goods or chattels shall be distrained for any rent, reserved and due upon any demise, lease or contract, whatsoever, and the tenant or owner of the goods so distrained, shall not within ten days after such distress taken, and notice thereof, and the cause of such taking left at the chief mansion house, or other most notorious place on the premises, charged with the rent distrained for, replevy the same, by sufficient security given to the sheriff or officer serving such distress, to pay the money or tobacco, and all costs, with lawful interest for the same at the end of three months; in such case, such sheriff or officer shall and may sell the goods and chattels so distrained for, by public auction, to the highest bidder, either for money or tobacco, according as the rent reserved shall be due and payable, to be paid at the end of three months; and shall take bond of the buyer or buyers, with one or more sufficient securities, to pay the same accordingly, with interest to the landlord for whom the distress was made. 1748. ch. 10. s. 1.

SEC. II. ALL and every bond and bonds, so taken in pursuance of this act, shall mention that the same was or were entered into for goods or other estate distrained for rent, and restored to the debtor, or sold to the obligor (as the case shall be) and before the expiration of the said three months, shall be delivered to the landlord for whom distress was made. And if the money or tobacco shall not be paid according to the condition of any such bond, it shall be lawful, and full power and authority is hereby given to the justices of the court where such bond shall be lodged, upon motion of the party to whom the same is payable, to award execution thereupon, with costs, provided the obligors have ten days notice of such motion; and upon such execution the sheriff or officer shall not take any sureties for payment of the money or tobacco at a further day, but shall levy the same immediately. And for the better direction of such sheriff or officer, the clerk shall endorse upon the back of every such execution, that "no security is to be taken." Ib. ch. 8. s. 14.

SEC. III. *PROVIDED* always, That when distress shall be made for tobacco, between the last day of September and the last day of December, in any year, and the goods distrained shall not be replevied as aforesaid, such goods shall be sold, and security taken for paying the tobacco by the first day of January then next ensuing; and the bonds taken for the same, and costs of seizure and sale, shall be by the officer delivered to the landlord for whom distress was made; which last mentioned bonds, shall have the like force, and may be proceeded upon in the same manner as any other bond directed to be taken by this act. Ib. ch. 10. s. 2.

SEC. IV. IN case any distress and sale shall be made, under colour of this act, for rent pretended to be in arrear and due, where in truth no rent is in arrear or due to the person or persons distraining, or to him, her, or them in whose name or names, or right such distress shall be taken as aforesaid, then the owner of the goods and chattels so distrained and sold, his executors or administrators, shall have remedy, by action of trespass, or upon the case, against the person and persons so wrongfully distraining, or either of them, his, her, or their executors and

administrators, and shall recover double the value of the goods and chattels so distrained and sold, together with full costs of suit.

1748. ch. 10,
6. 4.

SEC. V. UPON any pound breach, or *rescous*, of goods or chattels, distrained for rent, the person or persons grieved thereby, shall, in a special action upon the case, for the wrong thereby sustained, recover treble damages, with costs of suit, against the offender and offenders, in any such *rescous* or pound breach, or either of them, or against the owner of the goods distrained, in case the same be afterwards found to have come to his or her use or possession.

Ib. ib. s. 5.

SEC. VI. NO goods or chattels whatsoever, lying or being in or upon any messuage, lands, or tenements, which are or shall be leased for life or lives, term of years, at will, or otherwise, shall at any time hereafter be liable to be taken by virtue of any writ of execution, or on any pretence whatsoever, unless the party so taking the same, shall, before removal of the goods from off such premises, pay or tender to the landlord or lessor thereof, or his agent, all the money or tobacco due for the rent of the said premises, at the time of taking such goods or chattels in execution.

Ib. ib. s. 6.

SEC. VII. *PROVIDED nevertheless*, That such rent arrear do not amount to more than one year's rent; and if more be due, then the party suing out such execution, paying or tendering to such landlord, or his agent, one year's rent, may proceed to execute his judgment: And the sheriff or officer serving the same, is hereby empowered and required to levy, and pay to the plaintiff, as well the money or tobacco so paid for rent, as the execution money.

Ib. ib. s. 7.

SEC. VIII. WHERE any landlord shall have sufficient grounds to suspect that his tenant will remove, with his effects, out of the county before the expiration of his term, so as no distress for the said rent can be made, it shall be lawful for such landlord to go before any justice of the peace of the county where the lands leased do lie, and make oath what rent the tenant is to pay, and at what time the same will be due, and that he has just cause to suspect, and verily believes such tenant will remove his or her effects out of the county before time of payment; and thereupon such justice may, and is hereby empowered and required to issue an attachment against the goods and chattels of such tenant, returnable to his next county court, and if such tenant shall not, at the time of serving such attachment, or before, or at such next court, enter into recognizance, with one or more sufficient sureties, for the payment of the said rent at the time it shall become due, it shall be lawful for such court, and they are hereby required to order the goods attached to be sold by the sheriff, at public auction, for money or tobacco, according to the reservation of the rent, to be paid at the time the rent shall become due, the purchasers giving good security for such payment, and to assign the bonds taken for the same, and the costs, to such landlord; and the overplus of such sale, if any, besides the charges of attachment and sale, to return to the owner.

Ib. ib. s. 8.

SEC. IX. IN case any lessee for life or lives, term of years, at will, or otherwise, of messuages, lands, or tenements, upon the demise whereof any rents are or shall be reserved, or made payable, shall at any time fraudulently or clandestinely convey or carry off or from such demised premises, his goods or chattels, with intent to prevent the landlord or lessor from distraining the same for arrears of rent so reserved, it shall be lawful for such lessor or landlord, or any person or persons by him for that purpose lawfully empowered, within ten days next after such conveying away or carrying off such goods and chattels, to take and seize the same wherever they shall be found, as a distress for the arrears of such rent, and the same to sell, in like manner as if they actually had been distrained by such lessor or landlord in and upon the demised premises.

Ib. ib. s. 9.

SEC. X. *PROVIDED always*, That no goods or chattels so carried off, and *bona fide* sold for a valuable consideration, before such seizure made, shall be afterwards liable to be so taken or seized for any arrears of rent.

SEC. XI. ANY person or persons having rent in arrear, or due, upon any lease or demise for life or lives, may bring an action or actions of debt for such arrears of rent, in the same manner as if such rent were due and reserved upon a lease for years. 1748. ch. 10. s. 10.

SEC. XII. IT shall be lawful for any person or persons, having rent in arrear, or due, upon any lease for life or lives, or for years, or at will, ended or determined, to distrain for such arrears after the determination of the respective leases, in the same manner as if such lease or leases had not been determined. Ib. ib. s. 11.

SEC. XIII. PROVIDED, That such distress be made within six months after the determination of such lease, and during the continuance of such landlord's title or interest, and during the possession of the tenant from whom such arrears became due. Ib. ib. s. 12.

SEC. XIV. PROVIDED also, That nothing in this act contained, shall extend, or be construed to let, hinder, or prejudice the commonwealth, in the levying, recovering, or seizing any debts, fines, penalties, or forfeitures, due, payable, or answerable to the commonwealth; but that the same may be levied, recovered, and seized, in the same manner as if this act had never been made. Ib. ib. s. 13.

SEC. XV. AND whereas very great and unjust delays have arisen from the suing out writs of replevin, in cases of goods distrained for rent: For remedy whereof, Be it enacted, That before any writ of replevin shall be granted in case of goods and chattels distrained for rent, the person or persons praying such writ, shall enter into bond, with one or more sufficient securities, in the clerk's office, in the penalty of at least double the value of the rent distrained for, and costs of suit, to perform and satisfy the judgment of the court in such suit, in case he, she, or they shall be cast therein; and if upon the trial of such suit, it shall be found that the rent distrained for, was justly due, the party injured or delayed by suing forth the said writ, shall recover against the party suing forth and prosecuting the same, double the value of the rent in arrear and distrained for, with full costs of suit. And upon any execution issued upon such judgment, the clerk shall in like manner endorse, that "no security is to be taken." 1769. ch. 4, s. 1.

SEC. XVI. WHERE any person shall suggest that the goods distrained, are his or her property, and not the property of the tenant, nor held in trust for the use of the tenant in any manner whatsoever, and that the same in his or her opinion are not liable to such distress, he or she giving bond and security, in manner herein before directed, may sue out a writ of replevin for such goods, but not otherwise; and in case the person or persons suing out the said writ, shall be cast in such suit, judgment shall be given against him for double the value of the rent in arrear and distrained for, with full costs as aforesaid. And for the more speedy determination of all such writs of replevin:

SEC. XVII. BE it further enacted, That every such writ shall be returnable to the next court after the same shall be issued; and such court shall at their next sitting after the return, cause an issue to be made up therein, which shall be tried at the following court, without waiting for its turn in the order of priority in regard to other suits.

ALL and every act and acts, clauses and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

A BILL for regulating Conveyances.

1785. ch. 62. SECTION I. **B**E it enacted by the General Assembly, That no estate of inheritance, or freehold, or for a term of more than five years, in lands or tenements, shall be conveyed from one to another, unless the conveyance be declared by writing, sealed and delivered; nor shall such conveyance be good against a purchaser for valuable consideration, not having notice thereof, or any creditor, unless the same writing be acknowledged by the party or parties who shall have sealed and delivered it, or be proved by three witnesses to be his, her, or their act, before the General Court, or before the court of that district, county, city, or corporation, in which the land conveyed, or some part thereof lieth, or in the manner herein after directed, within eight months after the time of sealing and delivering, and be lodged with the clerk of such court, to be there recorded.

1b. ib. SEC. II. NO covenant or agreement made in consideration of marriage, shall be good against a purchaser for valuable consideration, not having notice thereof, or any creditor, unless the same covenant or agreement be acknowledged by the party bound thereby, or be proved by three witnesses to be his, her, or their act, if land be charged, before the General Court, or the court of that district or county in which the land, or part thereof lieth, or if personal estate only be settled or covenanted, or agreed to be paid or settled before the court of that district, county, city, or corporation, in which such party shall dwell, or in the manner herein after directed, within eight months after the covenant or agreement made, and be lodged with the clerk of such court, to be there recorded.

1748. ch. 1. SEC. III. WHEN any such deed or conveyance shall be acknowledged or proved in court, in order to their being recorded, the livery of *seisin* thereupon made, in such cases where the same is by law required, shall in like manner be acknowledged or proved, and shall be recorded together with the deed or conveyance whereupon it shall be made.

1b. ib. s. 4. SEC. IV. ALL bargains, sales, and other conveyances whatsoever of any lands, tenements, or hereditaments, whether they be made for passing any estate of freehold or inheritance, or for term of years, and all deeds of settlement upon marriage, wherein either lands, slaves, money, or other personal thing shall be settled or covenanted to be left, or paid at the death of the party or otherwise, and all deeds of trust and mortgages whatsoever, which shall hereafter be made and executed, shall be void as to all creditors and subsequent purchasers, unless they shall be acknowledged or proved, and recorded according to the directions of this act; but the same, as between the parties and their heirs, shall nevertheless be valid and binding.

1785. ch. 62. SEC. V. IF the party who shall sign and seal any such writing, reside not in Virginia, the acknowledgment by such party, or the proof by the number of witnesses requisite, of the sealing and delivering of the writing, before any court of law, or the mayor or other chief magistrate of any city, town, or corporation of the county in which the party shall dwell, certified by such court, or mayor or chief magistrate, in the manner such acts are usually authenticated by them, and offered to the proper court to be recorded within eighteen months after the sealing and delivering, shall be as effectual as if it had been in the last mentioned court.

1b. 1b. SEC. VI. WHEN husband and wife have sealed and delivered a writing, purporting to be a conveyance of any estate or interest, if she appear in court, and being examined privily and apart from her husband, by one of the judges thereof, shall declare to him that she did freely and willingly seal and deliver the said writing to be then shewn and explained to her, and wishes not to retract it, and shall before the said court acknowledge the said writing, again shewn to her, to be her act, or if before two justices of the peace of that county in which she dwelleth, if her dwelling be in the United States of America, who may be empowered by commission, to be issued by the clerk of the court wherein the writing ought to be recorded, to examine her privily, and take her acknowledgment; the wife, being examined privily and apart from her husband, by those commissioners, shall declare that she willingly signed and sealed the said writing, to be then shewn and

explained to her by them, and consenteth that it may be recorded; and the said commissioners shall return with the commission, and thereunto annexed, a certificate under their hands and seals, of such privy examination by them, and of such declaration made, and consent yielded by her; in either case the said writing, acknowledged also by the husband, or proved by witnesses to be his act, and recorded, together with such her privy examination and acknowledgment before the court, or together with such commission and certificate, shall not only be sufficient to convey or release any right of dower thereby intended to be conveyed or released, but be as effectual for every other purpose as if she were an unmarried woman.

SEC. VII. IF the dwelling of the wife be not in the United States of America, the commission to examine her privily and take her acknowledgment, shall be directed to any two judges or justices of any court of law, or to the mayor, or other chief magistrate of any city, town, or corporation of the country in which the wife shall dwell, and may be executed by them in the same manner as a commission directed to two justices in the United States of America; and the certificate of the judges or justices of such court, or the certificate of such mayor or chief magistrate, authenticated in the form, and with the solemnity, by them used in other acts, shall be as effectual as the like certificate of the justices in the United States of America. 1785. ch. 62.

SEC. VIII. THE clerk of every court shall record all writings acknowledged or proved before such court, or certified to have been acknowledged and proved in manner before prescribed, together with the commissions for privily examining and taking the acknowledgments of married women, and all endorsements on such writings and plots, schedules, and other papers thereto annexed, by entering them word for word, in well bound books, to be carefully preserved, and afterwards redeliver them to the parties entitled to them; and shall moreover make a docket of all such writings, containing the dates thereof, and of the acknowledgments, and probats, the names, surnames, and additions of the parties thereto, in alphabetical order, and the quantities and situations of land, numbers, and names of slaves, and descriptions of personal estate conveyed thereby; and the clerk of every district or county court, shall transmit such docket made by him, to the clerk of the General Court in every term, to be recorded by him. Ib. ib.

SEC. IX. EVERY estate in lands or slaves, which on the seventh day of October, in the year of our Lord one thousand seven hundred and seventy-six, was an estate in fee tail, shall be deemed from that time to have been, and from thenceforward to continue, an estate in fee-simple: And every estate in lands, which since hath been limited, or hereafter shall be limited, so that as the law at that time was such estate would have been an estate tail, shall also be deemed to have been and to continue an estate in fee-simple: And all estates, which before the said seventh day of October, one thousand seven hundred and seventy-six, by the law, if it remained unaltered, would have been estates in fee tail, and which now, by virtue of this act, are, and will be, estates in fee-simple, shall from that time and henceforth be discharged of the conditions annexed thereto by the common law, restraining alienations before the donee shall have issue, so that the donees or persons in whom the conditional fees vested, or shall vest, had, and shall have the same power over the same estates, as if they were pure and absolute fees. Ib. Ib.

SEC. X. EVERY estate in lands which shall hereafter be granted, conveyed, or devised to one, although other words heretofore necessary to transfer an estate of inheritance be not added, shall be deemed a fee simple, if a less estate be not limited by express words, or do not appear to have been granted, conveyed, or devised, by construction or operation of law. Ib. ib.

SEC. XI. WHERE an estate hath been or shall be by any conveyance limited in remainder to the son or daughter, of or to the use of the son or daughter of any person, to be begotten, such son or daughter, born after the decease of his or her father, shall take the estate in the same manner as if he or she had been born in the lifetime of the father, although no estate shall have been conveyed to support the contingent remainder after his death. Ib. ib.

1785, ch. 62. SEC. XII. BY deed of bargain and sale, or by deeds of lease and release, or by covenant to stand seized to use, or deed operating by way of covenant to stand seized to use, the possession of the bargainor, releasor, or covenantor, shall be deemed heretofore to have been, and hereafter to be transferred to the bargainee, releasee, or person entitled to the use, for the estate or interest which such person hath or shall have in the use, as perfectly as if such bargainee, releasee or person entitled to the use had been enfeoffed with livery of *seisin* of the land intended to be conveyed by such deed or covenant.

1b. ib. SEC. XIII. ESTATES of every kind holden or possessed in trust, shall be subject to like debts and charges of the persons to whose use or for whose benefit they were, or shall be, respectively holden or possessed, as they would have been subject to if those persons had owned the like interest in the things holden or possessed, as they own or shall own in the uses or trusts thereof.

1b. ib. SEC. XIV. WHERE any person to whose use, or in trust for whose benefit, another is or shall be seized of lands, tenements or hereditaments, hath or shall have such inheritance in the use or trust, as that if it had been a legal right, the husband or wife of such person would thereof have been entitled to curtesy or dower, such husband or wife shall have and hold, and may by the remedy proper in similar cases, recover curtesy, or dower of such lands, tenements, or hereditaments.

1b. ib. SEC. XV. GRANTS of rents, or of reversions, or remainders, shall be good and effectual without attornments of the tenants, but no tenant who, before notice of the grant, shall have paid the rent to the grantor, shall suffer any damage thereby.

1b. ib. SEC. XVI. THE attornment of a tenant to any stranger, shall be void, unless it be with consent of the landlord of such tenant, or pursuant to, or in consequence of the judgment of a court of law, or the order or decree of a court of equity.

ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

PROVIDED nevertheless, That nothing herein contained shall be construed to affect any right which may have accrued or been vested before the commencement of this act.

A BILL reducing into one, the several Acts concerning the Manner of authenticating foreign Deeds, Records, and other Instruments in Writing.

1787. ch. 21. SECTION I. **W**HEREAS the intercourse between this state and the other states in the union, and between this state and foreign nations, has become more considerable than heretofore, which renders it necessary that some mode should be adopted, to give authenticity to deeds and certain other instruments in writing, foreign judgments, specialties on record, registers of births and marriages, made, executed, entered into, given and enregistered by and between persons residing in any of the United States, or in any foreign kingdom, state, nation, or colony, beyond sea, and out of the jurisdiction of this state :

1b. ib. s. 5. SEC. II. BE it enacted by the General Assembly, That all such deeds if acknowledged by the party making the same, or proved by the number of witnesses re-

quisite before any court of law, or the mayor, or other chief magistrate of any city, town, or corporation of the country in which the party shall dwell, certified by such court, or mayor, or chief magistrate, in the manner such acts are usually authenticated by them; and all policies of insurance, charter parties, powers of attorney, foreign judgments, specialties on record, registers of birth and marriages, as have been, or shall be made, executed, entered into, given and enregistered in due form, according to the laws of such state, kingdom, nation, province, island, or colony, and attested by a notary public, with a testimonial from the proper officer of the city, county, corporation, or borough, where such notary public shall reside, or the great seal of such state, kingdom, province, island, colony, or place beyond sea, shall be evidence in all the courts of record within this commonwealth, as if the same had been proved in the said courts. 1785. ch. 62.

ALL and every act, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

A BILL reducing into one Act, the several Acts concerning Wills; the Distribution of Intestates Estates; and the Duty of Executors and Administrators.

SECTION I. **B**E it enacted by the General Assembly, That every person aged twenty-one years or upwards, being of sound mind, and not a married woman, shall have power at his will and pleasure, by last will and testament in writing, to devise all the estate, right, title, and interest, in possession, reversion, or remainder, which he hath, or at the time of his death shall have, of, in, or to lands, tenements, or hereditaments, or annuities, or rents charged upon issuing out of them; so as such last will and testament be signed by the testator, or by some other person in his presence, and by his direction; and moreover, if not wholly written by himself, be attested by two or more credible witnesses, subscribing their names in his presence. 1785. ch. 61. s. 1.

SEC. II. **SAVING** to the widows of testators, their dower in such lands, tenements, rents, or annuities, according to the laws, which shall not be prejudiced by any devise thereof. Ib. ib. s. 2.

SEC. III. **NO** devise so made, or any clause thereof, shall be revocable but by the testator's destroying, cancelling, or obliterating the same, or causing it to be done in his presence, or by a subsequent will, codicil, or declaration in writing, made as aforesaid. But every last will and testament, made when the testator had no child living, wherein any child he might have is not provided for, or mentioned, if at the time of his death he leave a child, or leave his wife *enfeint* of a child, which shall be born, shall have no effect during the life of such after-born child, and shall be void unless the child die without having been married, or before he or she shall have attained the age of twenty-one years. When a testator shall leave children born, and his wife *enfeint*, the posthumous child or children, if it be unprovided for by settlement, and be neither provided for nor disinherited, but only pretermitted by the last will and testament, shall succeed to the same portion of the father's estate, as such child would have been entitled to, if the father had died intestate; towards raising which portion, the devisees and legatees shall contribute proportionably out of the parts devised and bequeathed to them by the same will and testament. Ib. ib. s. 3.

SEC. IV. **NO** person under the age of eighteen years shall be capable of disposing of his chattels by will. Ib. ib. s. 4.

SEC. V. **NO** *nuncupative* will shall be established, unless it be made in the time of the last sickness of the deceased, at his habitation, or where he hath resided for ten days next preceding, except where the deceased is taken sick from home and Ib. ib. s. 5.

dies before he returns to such habitation ; nor where the value exceeds ten pounds, unless it be proved by two witnesses that the testator called on some person present to take notice or bear testimony that such is his will, or words of the like import.

1785. ch. 61. s. 6. SEC. VI. AFTER six months have elapsed from the time of speaking the pretended testamentary words, no testimony shall be received to prove a *nuncupative* will, unless the testimony or the substance thereof shall have been committed to writing within six days after making the will.

1b. ib. s. 7. SEC. VII. NO will in writing, or any devise therein of chattels, shall be revoked by a subsequent will, codicil, or declaration, unless the same be in writing.

1b. ib. s. 8. SEC. VIII. ANY foldier in actual military service, or any mariner or seaman being at sea, may dispose of his chattels as he might heretofore have done.

1b. ibs s. 9. SEC. IX. IF any person shall subscribe his name as a witness to a will wherein any bequest is given to him, if the will may be not otherwise proved, the bequest shall be void, and such witness shall be allowed and compellable to appear and give testimony on the residue of the will, in like manner as if no such bequest had been made. But if such witness would be entitled to any share of the testator's estate in case the will were not established, so much of his said shares shall be saved to him as shall not exceed the value of the legacy bequeathed him.

1b. ib. s. 10. SEC. X. THE several district, county, city, or corporation courts, shall have power to hear and determine all causes, matters, suits, and controversies testamentary, arising within their respective jurisdictions, and to examine and take the proof of wills, and grant certificates thereof according to the methods and rules following ; that is to say : If any testator shall have a mansion house, or known place of residence, his will shall be proved in the court of the district, county, city, or corporation wherein such mansion house, or place of residence is ; if he have no such place of residence, and lands be devised in the will, it shall be proved in the court of the district, county, city, or corporation wherein the lands lie, or in one of them, where there shall be lands in several districts or counties : And if he hath no such known place of residence, and there be no lands devised, then the will may be proved either in the court of the district, county, city, or corporation where the testator shall die, or that wherein his estate, or the greater part thereof, shall be ; or such will may, in any case, be proved in the General Court.

1b. ib. s. 11. SEC. XI. WHEN any will shall be exhibited to be proved, the court having jurisdiction as aforesaid, may proceed immediately to receive the probat thereof, and grant a certificate of such probat : If, however, any person interested, shall within seven years afterwards appear, and by his bill in chancery contest the validity of the will, an issue shall be made up whether the writing produced be the will of the testator or not, which shall be tried by a jury whose verdict shall be final between the parties ; saving to the court a power of granting a new trial for good cause, as in other trials ; but no such party appearing within that time the probat shall be forever binding. Saving also to infants, *feme coverts*, and persons absent from the state, or *non compos mentis*, the like period after the removal of their respective disabilities.

22d. Geo. 2d. ch. 3. s. 4.

1785. ch. 61. s. 12. SEC. XII. IN all such trials by jury, the certificate of the oath of the witnesses at the time of the first probat, shall be admitted as evidence, to have such weight as the jury shall think it deserves.

1787. ch. 21. s. 2. SEC. XIII. IT shall be lawful for any court when any will shall be produced to them for probat, and any witness attesting the same shall reside out of the com-

monwealth, to issue a commission or commissions annexed to such will, and directed to the presiding judge of any court of law, or to any notary public, mayor, or other chief magistrate of any city, town, corporation, or county where such witness may be found, authorizing the taking and certifying his attestation. If the person to whom any such commission shall be directed, shall certify in the manner such acts are usually authenticated by him, that the witness personally appeared before him and made oath, or solemn affirmation (as the case may require) that the testator signed and published the writing annexed to such commission as his last will and testament, or that some other person signed it by his direction, that he was of disposing mind and memory, and that he subscribed his name thereto in the presence of the testator, and at his request, such oath or affirmation shall have the same operation, and the will be recorded in like manner, as if such oath or affirmation had been made in the court from whence such commission issued.

SEC. XIV. AUTHENTICATED copies of wills proved according to the laws of any of the United States, or of countries without the limits of the same, and relative to any estate within this commonwealth, may be offered for probat in the General Court; or where the estate so devised shall lie altogether in any one county or district, the court of such county or district respectively may admit to record any such authenticated copies, but the bond and oath of the executor or administrator with the will annexed, shall be changed from the bond and oath required by law in other cases, in such manner as to the said court shall seem necessary, and the proof to be made by the witnesses shall be conformed to the nature of the case. But such will shall be liable to be contested and controverted in the same manner as the original might have been.

SEC. XV. ALL persons named as executors in any such will, shall, after the copy thereof has been admitted to record as above directed, be entitled to a probat of the said wil, in the same manner as if the original will had been proved in such court. And where there shall be no executors named in the said will, or the executors therein named, shall, all of them, refuse the executorship, the court shall have the same power and authority to hear and determine the right of administration, and to grant a certificate for obtaining letters of administration with the will annexed, as if the original will had been proved in court. 1787. ch. 23. s. 7.

SEC. XVI. NO *nuncupative* will shall be proved within fourteen days after the death of the testator, nor until his widow (if any) and next of kin have been summoned to con test the same if they please. 1785, ch. 61. s. 13.

SEC. XVII. IF the General Court, or any district, county, city, or corporation court, having jurisdiction as aforesaid, shall be informed that any person hath the will of a testator in his custody, such court may summon such person, and by a proper process, compel him to produce the same.

SEC. XVIII. IF the executors named in any will shall all refuse the executorship, or being required to give security, as herein-after mentioned, shall refuse, or fail to give the same, which shall amount to a refusal of the executorship, in either case, the court having jurisdiction as aforesaid, may receive the proof of the will, and grant a certificate for obtaining letters of administration with the same annexed, to the person to whom administration would have been granted, if there had been no will of the deceased. Ib. ib. s. 15.

SEC. XIX. BEFORE granting a certificate of the probat of any will, the executor or administrator with the will annexed (as the case shall be) shall in open court take the following oath, to wit: " You shall swear that this writing contains the true last will of the within-named _____ as far as you know or believe; and that you will well and truly perform the same, by paying first his debts, and then the legacies contained in the said will, as far as his goods, chattels, and credits will extend, and the law charge you; and that you will make a true and perfect inventory of all the said goods, chattels and credits, Ib. ib. s. 14.

as also a just account when thereto required." And shall also give bond in such penalty, as will be equal to the full value of the estate at the least, and with such security as shall be approved of by the court, with the following condition, to wit: "The condition of this obligation is, that if the said _____, executor of the last will and testament (or administrator with the will annexed, of all the goods, chattels and credits) of _____, deceased, do make a true and perfect inventory of all and singular the goods, chattels, and credits of the said deceased, which have or shall come to the hands, possession, or knowledge of _____ the said _____, or into the hands or possession of any other person or persons for _____, and the same so made, do exhibit into the _____ court of _____, at such time as _____ shall be thereto required by the said court; and the same goods, chattels and credits, do well and truly administer according to law, and make a just and true account of _____ actings and doings therein, when thereunto required by the said court; and further do well and truly pay and deliver all the legacies contained and specified in the said will, as far as the said goods, chattels and credits will extend, according to the value thereof, and as the law shall charge _____, then this obligation to be void, or else to remain in full force."

1785. ch. 61. SEC. XX. WHICH bond shall be payable to the judges or justices sitting in
s. 17. court, and their successors, and shall not become void upon the first recovery, but may be put in suit and prosecuted from time to time, by, and at the costs of any party injured by a breach thereof, until the whole penalty be recovered thereupon.

1785. ch. 61. SEC. XXI. BUT where any testator shall leave visible estate, more than
s. 18. sufficient to pay all his debts, and by will shall direct, that his executors shall not be obliged to give security, in that case no security shall be required, unless the court shall see cause from their own knowledge, or the suggestions of creditors or legatees, to suspect the executors of fraud, or that the testator's personal estate will not be sufficient to discharge all his debts, and shall require security, when the same shall be given, before a certificate shall be granted, notwithstanding any directions to the contrary, in the testator's will.

1785. ch. 61. SEC. XXII. THE power of executors over their testators estates, before pro-
s. 19. bat of the will, is not hereby restrained, but shall continue as heretofore.

1785. ch. 61. SEC. XXIII. DURING any contest about a will, or during the infancy, or in
s. 20. the absence of an executor, or until a will which may have once existed, but is destroyed, shall be established; or whenever the court from any other cause shall judge it convenient, they may appoint any person or persons to collect and preserve the estate of any decedent, until a probat of his will, or *durante minore ætate*, or until administration of his estate be granted, taking bond and security for collecting the estate, making an inventory thereof, and safe keeping and delivering up the same, when required, to the executors or administrators.

SEC. XXIV. THE bond and oath of the administrator or appointee in such cases shall be changed from the bond and oath of an administrator in ordinary cases, in such manner as to the said courts or any of them shall seem necessary.

1785. ch. 61. SEC. XXV. WHEN any widow shall not be satisfied with the provision made
s. 21. for her by the will of her husband, she may within one year from the time of his death, before the General Court, or court having jurisdiction of the probat of his will as aforesaid, or by deed, executed in the presence of two or more credible witnesses, declare that she will not take or accept the provision made for her by such will, or any part thereof, and renounce all benefit which she might claim by the same will; and thereupon such widow shall be entitled to one third part of the slaves whereof her husband died possessed, which she shall hold during her life, and at her death, they and their increase, shall go to such person or persons, to whom they would have passed and gone, if such declaration had not been made; and she shall moreover be entitled to such share of his other personal estate, as if he had died intestate, to hold to her as her absolute property; but every widow, not making a

declaration within the time aforesaid, shall have no more of her husband's slaves and personal estate, than is given her by his will.

SEC. XXVI. ALL original wills shall be recorded, and shall also remain in the clerk's office of the court wherein they are respectively proved, except during such time as they may be in any superior court, having been removed thither for inspection by *certiorari* or otherwise, after which they shall be returned to the said office. 1785. ch. 61. s. 24.

SEC. XXVII. WHEN any person shall die intestate as to his goods and chattels, or any part thereof, after funeral, debts, and just expences paid, if there be no child, one moiety, or, if there be a child or children, one third of the surplus shall go to the wife, but she shall have no more than the use for her life of such slaves as shall be in her share, and the residue of the surplus; and after the wife's death, the slaves in her share, or if there be no wife, then the whole of such surplus shall be distributed in the same proportions, and to the same persons, as lands are directed to descend in, and by an act of the General Assembly, intituled, "An act directing the course of descents." Nothing in this act contained, shall be understood so as to compel the husband to make distribution of the personal estate of his wife dying intestate. Where any children of the intestate, or their issue, shall have received from the intestate, in his lifetime, any personal estate by way of advancement, and shall choose to come into the distribution with the other persons entitled, such advancement shall be brought into hotchpot with the distributable surplus. 1785. ch. 61. s. 25.

SEC. XXVIII. THE General Court, and the several courts respectively, shall have the like jurisdiction to hear and determine the right of administration of the estates of persons dying intestate, as is herein before-mentioned; as to the proof of wills, in respect to the intestate's place of residence, or death, or where the estate shall lie, and shall grant certificates for obtaining such administration to the representatives who apply for the same; preferring first the husband or wife, and then such others as are next entitled to distribution, or one, or more of them, as the court shall judge will best manage and improve the estate. 1785. ch. 61. s. 26.

SEC. XXIX. IF no such person applies for administration within thirty days, from the death of an intestate, or at the next succeeding court after the expiration thereof, the court may grant administration to any creditor or creditors who apply for the same, or to any other person the court shall, in their discretion, think fit: But if any will shall afterwards be produced, and proved by executors, or the wife, or other distributee, who shall not have before refused, shall apply for the administration, the same shall be granted, in like manner as if the former had not been obtained. 1785. ch. 61. s. 27.

SEC. XXX. BEFORE granting a certificate for the administration of any estate, the person or persons to whom the same is granted shall, in open court, take the following oath, to wit: "You shall swear that _____, deceased, died without any will, as far as you know or believe; and that you will well and truly administer all and singular the goods, chattels and credits of the said deceased, and pay his debts, as far as his goods, chattels and credits will extend, and the law require you; and that you will make a true and perfect inventory of all the said goods, chattels and credits, as also a just account when thereunto required." So help you God. 1785. ch. 61. s. 28.

SEC. XXXI. AND shall also give bond, in a penalty at least equal to the value of the estate, and with such security, as shall be approved by the court, with the following condition, to wit: "The condition of this obligation is, that if the said _____, administrator of the goods, chattels, and credits of _____, deceased, do make a true and perfect inventory of all and singular the goods, chattels, and credits of the said deceased, which have or shall come to the hands, possession, or knowledge of _____ the said _____, or in the hands or possession of any other person or persons, for _____; and the same so made do exhibit into the _____ court, _____ when he shall be thereto required by the said court; and such goods, chattels, and credits, do well 1785. ch. 61. s. 29.

and truly administer, according to law; and further, do make a just and true account of his actings and doings therein, when thereto required by the said court: And all the rest of the said goods, chattels, and credits which shall be found remaining upon the account of the said administrator, the same being first examined and allowed by the justices of the said court for the time being, shall deliver and pay unto such persons respectively, as are entitled to the same by law; and if it shall hereafter appear that any last will and testament was made by the deceased, and the same be proved in court, and the executor obtain a certificate of the probat thereof, and the said ——— do, in such case, being required, render and deliver up his letters of administration; then this obligation to be void, else to remain in full force." Which bond shall be payable to the sitting justices, and their successors, and may be put in suit and prosecuted in like manner as is before directed in the case of bonds to be given by executors or administrators with the will annexed.

1785. ch. 61. SEC. XXXII. BUT no security for any executor or administrator shall be
s. 30. chargeable beyond the assets of the testator or intestate, by reason of any omission or mistake in pleading, or false pleading of such executors or administrators.

Ib. ib. s. 31. SEC. XXXIII. IF any court shall grant a certificate for obtaining administration of the estate of any person deceased, without taking good security for the same as aforesaid, to be judged of according to the apparent circumstances of the security when taken, and not from subsequent accidents or discoveries thereof, the justices of such court then sitting, shall be answerable to the person or persons injured, for all loss or damage occasioned by the not requiring any, or by the taking insufficient security, recoverable with costs, by action on the case, in any court of record.

Ib. ib. s. 32. SEC. XXXIV. WHEN securities for executors or administrators conceive themselves in danger of suffering thereby, and petition the court for relief, the court shall summon the executor or administrator, and make such order or decree thereupon, to relieve and secure the petitioners, by counter-security, or otherwise, as to them shall seem just and equitable.

Ib. ib. s. 33. SEC. XXXV. ALL certificates of probat or of administration, attested by the clerk shall enable the executor or administrator to act, and may be produced or given in evidence in any court within this commonwealth, and be as effectual as any probat or letters of administration made out in due form; nevertheless, the clerks of the courts shall, when required by an executor or administrator, make out such probat or letters in due form, in the name of the first justice of the court; which probat or letters, shall be signed by such justice, and sealed with the district, county, city, or corporation seal, if the will be proved in a district, county, city, or corporation court, or with the seal of the commonwealth, if proved in the General Court.

Ib. ib. s. 34. SEC. XXXVI. THE clerk of every district, county, city, or corporation court, shall, half yearly, in the months of April and October, return to the clerk of the General Court, a list of all certificates granted in his court for probats and administrations within the preceding half year in this form [date of certificate] [name of testator or intestate] [names of securities] [penalty of bond.] Which lists, together with such certificates as are granted in the General Court, shall be entered by the clerk of the General Court, alphabetically, in books to be kept for that purpose.

Ib. ib. s. 35. SEC. XXXVII. EVERY court granting a certificate for a probat, or administration, shall nominate three or more appraisers in every county, city, or corporation, where any of the personal estate of the decedent shall be, who, being sworn before a justice of the peace for that purpose, shall truly and justly, to the best of their judgment, view and appraise all the personal estate to them produced, and shall return such appraisement under their hands to the court ordering the same; which appraisement, if signed by the executor or administrator, may be considered as an inventory of such part of the estate, as had heretofore come to his hands.

SEC. XXXVIII. INVENTORIES and appraisements may be given in evidence in any suit by or against the executor or administrator, but shall not be conclusive for or against him, if other testimony be given that the estate was really worth, or was, *bona fide*, sold for more or less than the appraisement. 1785, ch. 61. s. 36.

SEC. XXXIX. EACH appraiser shall be entitled to thirty pounds of tobacco, per day, for his attendance, to be paid by the executor or administrator, and charged to the estate. Ib. ib. s. 37.

SEC. XL. EXECUTORS and administrators, whether it be necessary for payment of debts, or not, shall, as soon as convenient after they are qualified, sell, at public sale, all such goods of their testator or intestate, specific legacies excepted, as are liable to perish, be consumed, or rendered worse by keeping, giving such credit as they shall judge best, and the circumstances of the estate will admit of, taking bond and good security of the purchasers, and shall account for such goods according to the sales. If more be sold than will pay the debts and expenses, the executor or administrator may assign the bonds for the surplus, to those entitled to the estate, and be discharged as to so much; and if after such assignment the obligor become insolvent so as the money be lost, such loss shall be made good to the assignee, out of the decedent's estate. Ib. ib. s. 38. 22d. Geo. 2d. ch. 3. s. 97.

SEC. XLI. IF such perishing goods be not sufficient for paying the debts and expenses, the executor or administrator shall proceed in the next place to sell the other personal estate, disposing of the slaves last, until the debts and expenses be all paid, having regard to the privilege of specific legacies. 1785. ch. 61. s. 39.

SEC. XLII. NEVERTHELESS, if the testator direct his estate not to be appraised, it shall be sufficient to return an inventory thereof only; and if he direct his estate not to be sold, the same shall be preserved in specie, unless a sale be necessary for the payment of debts. Ib. ib. s. 40.

SEC. XLIII. THE dead victuals and liquors, which at the death of any testator or intestate shall have been laid in for consumption in his family, shall not be sold by the executor or administrator, but shall remain for the use of such family without account thereof to be made: If, however, before its final consumption, any child shall leave the family, such child shall have a right to carry with him or her, an equal share of what shall then be on hand. Any live stock which may be necessary for the food of the family may also be killed for that use, at any time before the sale, division, or distribution of the estate. Ib. ib. s. 41.

SEC. XLIV. THE sale and conveyance of lands devised to be sold, shall be made by the executors or such of them as shall undertake the execution of the will, if no other person be thereby appointed for that purpose, or if the person so appointed shall refuse to perform the trust, or die before he shall have completed it. Ib. ib. s. 42.

SEC. XLV. IF any person shall die after the first day of March, the servants and slaves of which he was possessed, whether held for life or for other interest, and which were employed in making a crop, shall be continued on the plantations in the occupation of the decedent until the last day of December following, and then delivered to those who shall have a right to demand the same; and their crops shall be assets in the hands of the executors and administrators, subject to debts, legacies, and distribution; the levies and taxes, their tools, the expence of feeding them and their families to that time, and delivering them well cloathed, being first deducted. And if such slaves or servants be held by the testator or intestate for his or her life only, in that case the executor or administrator shall be obliged to deliver, to those who are entiled in remainder or reversion, three barrels of Indian corn for every such servant or slave, old and young, to be allowed in their accounts of administration. Ib. ib. s. 43.

1785. ch. 61. **SEC. XLVI.** IF a testator or intestate shall die after the first day of March, all the emblements of his lands which shall be severed before the thirty first day of December following, shall in like manner be assets in the hands of the executor or administrator; but all such emblements growing on the lands on that day, or at the time of the death of the testator or intestate, if that event happen after the thirty first day of December, and before the first day of March, shall pass with the land to the heir, devisee, reversioner, or remainder man. *

Ib. ib. s. 45. **SEC. XLVII.** IF there be tenant for life of lands or slaves let or hired to another, at the death of such tenant for life, if that event happen after the first day of March, the lessee or person hiring shall hold the lands and slaves until the last day of December following, paying rent or hire to that time, and in the case of slaves, delivering them well clothed.

Ib. ib. s. 46. **SEC. XLVIII.** THE rent of land or hire of slaves shall be apportioned between the executor or administrator of him, who having a freehold, or other uncertain estate in the land, and the use for life, or for other uncertain term in the slaves, shall die before the rent or hire become due, and him who shall succeed to the land and slaves, as heir, devisee, or person in reversion or remainder, unless, in the case of a devisee, the contrary be directed by the testator.

Ib. ib. s. 47. **SEC. XLIX.** THE appointment of a debtor executor shall in no case be deemed an extinguishment of the debt, unless it be so directed in the will.

Ib. ib. s. 48. **SEC. L.** NO distribution shall be made of an intestate's estate until nine months after his death, nor shall an administrator be compelled to make distribution at any time, until bond and security be given by the person entitled to distribution, to refund due proportions of any debts or demands, which may afterwards appear against the intestate, and the costs attending the recovery of such debts.

Ib. ib. s. 49. **SEC. LI.** EXECUTORS and administrators shall be allowed in their accounts all reasonable charges and disbursements which they shall lay out and expend in the funeral of the deceased, and other their administration; and in extraordinary cases, may be allowed such recompence for their personal trouble, as the court, on passing their accounts, shall judge reasonable.

Ib. ib. s. 50. **SEC. LII.** THE executors or administrators of a guardian of a committee, or of any other person, who shall have been chargeable with, or accountable for the estate of a ward, an idiot, or a lunatic, or the estate of a dead person, committed to their testator or intestate by a court of record, shall pay so much as shall be due from their testator or intestate, to the ward, idiot, or lunatic, or to the legatees, or persons entitled to distribution, before any proper debt of their testator or intestate.

Ib. ib. s. 51. **SEC. LIII.** WHERE any person shall die seized of lands held for life of another, such person may, by his or her last will and testament in writing, made and proved, as is herein before directed for the devise of lands, devise all his interest in such lands, which shall, if necessary, be assets in the hands of such devisee. And if no such devise be made, such lands for the residue of the term shall be as-

* By the common law the emblements growing at the time of the death of tenant for life, or other uncertain interest, shall in all cases go to the executor, where the estate was not determined by the act of the tenant himself—but by this clause, the crop of wheat, or other crop growing between the 31st of December, and the 1st of March, is given to the remainder man or reversioner, if the tenant for life shall die between those days—Although that crop must necessarily have been sown, and unsevered during the whole of that period—an inconvenience which the committee apprehend was not foreseen by the framers of the act of 1785. ch. 61.

sets in the hands of the heir, if it shall come to him by reason of a special occupancy, in the same manner as lands descending in fee-simple; and if there be no special occupant, it shall go to the executors or administrators of the person so dying seized, and be assets in their hands, subject to debts, legacies, and distribution.

SEC. LIV. EXECUTORS or administrators may sue, or be sued upon all judgments, bonds, or other specialties, bills, notes, or other writings of their testators or intestates, whether the executors or administrators be, or be not named in such instruments, and also upon all their personal contracts. 1785. ch. 61. s. 52.

SEC. LV. ACTIONS of trespass may be maintained by or against executors or administrators, for any goods taken and carried away in the life-time of the testator or intestate, and the damages recovered shall be, in the one case, for the benefit of the estate, and in the other, out of the assets. Ib. Ib. s. 53.

SEC. LVI. EXECUTORS of executors shall do and perform all things in the execution of the will of the first testator, which shall remain undone at the death of the first executor; and shall and may sue, or be sued in all things respecting the estate, in the same manner as such first executor could or might have sued, or been sued. Ib. Ib. s. 54.

SEC. LVII. THE executor or administrator of an executor in his own wrong, and the executor or administrator of a rightful executor or administrator, by whom any waste shall have been committed, shall be chargeable in the same manner as his testator or intestate might have been. 22. Geo. 2d. ch. 3. s. 36.

SEC. LVIII. IF all the executors named in any last will shall refuse to undertake the executorship, or being required to give security, shall refuse to give, or be unable to procure the same, and no person will apply for administration with the will annexed: Or, if no person will apply for administration of the goods and chattels of any intestate, it shall be lawful for the General Court, or other court having jurisdiction of such probate or administration, as herein before mentioned, after the expiration of three months from the death of the testator or intestate, to order the sheriff of the county, city, or corporation, to take the estate into his possession, and make sale of so much thereof by public auction, as the payment of debts shall make necessary, or as shall be perishable, or be directed by will to be sold: And all sales and conveyances, *bona fide* made by the sheriff or his deputies, in consequence of such order, shall be as effectual to the purchasers, as if they had been made by the testator, or intestate in his lifetime. The estate shall be sold upon such credit as the court shall direct, and upon public notice previously given, the purchasers giving bond and good security for payment according to the limited time of credit. The sheriff may sue, if necessary, for recovery of debts, or of goods and chattels, and shall make a true and perfect inventory of the whole estate, and an account of sales, and shall return the same, together with the bonds, to the court by whom he was ordered to sell, without delay, who shall first direct the payment of such debts as shall be proved before them, and proportion the assets amongst the creditors, without regard to the dignity of debts, where there shall not be sufficient to pay the whole; but if there be sufficient, they may order the surplus, if any, to the legatees or next of kin to the decedent, according to the directions of the will, or of this act. Whereupon the sheriff or deputy shall assign the bonds, and deliver the estate remaining unsold, to the creditors, or others, according to such order, retaining, nevertheless, his commissions, which shall be the same upon the estate by him sold, as is allowed for goods taken in execution; and where the whole estate is not sold, he shall moreover be allowed his reasonable expenses and disbursements in the care of the part unsold. 1785. ch. 61. s. 55.

SEC. LIX. ALL sales and conveyances of lands heretofore *bona fide* made by a sheriff under an order of court, where the lands had been devised to be sold, and the executor had refused to act, are hereby confirmed and made effectual against all persons claiming under the testator. Ib. Ib. s. 56.

ALL and every act, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

A BILL to reduce into one, the several Acts Directing the Course of Descents.

1785. ch. 60. SECTION I. **B**E it enacted by the General Assembly, That henceforth when any
s. 1. person having title to any real estate of inheritance, shall die intestate as to such estate, it shall descend and pass in parcenary to his kindred, male and female, in the following course; That is to say:

Ib. ib. s. 2. SEC. II. TO his children or their descendants, if any there be:

Ib. ib. s. 3. SEC. III. IF there be no children, nor their descendants, then to his father:

Ib. ib. s. 4. SEC. IV IF there be no father, then to his mother, brothers, and sisters, and their descendants, or such of them as there be.

1790. ch. 13. SEC. V. *PROVIDED nevertheless*, That where an infant shall die without issue,
s. 3. having title to any real estate of inheritance derived by purchase or descent from the father, the mother of such infant shall not succeed to or enjoy the same or any part thereof, if there be living any brother or sister of such infant, or any brother or sister of the father, or any lineal descendant of either of them. Saving however to such mother any right of dower which she may claim in the said real estate of inheritance.

Ib. ib. s. 4. SEC. VI. *AND provided also*, That where an infant shall die without issue, having title to any real estate of inheritance, derived by purchase or descent from the mother, the father of such infant shall not succeed to or enjoy the same or any part thereof if there be living any brother or sister of such infant, or any brother or sister of the mother, or any lineal descendant of either of them. Saving however to such father the right which he may have as tenant by the curtesy in the said estate of inheritance.

1785. ch. 60. SEC. VII. IF there be no mother, nor brother, nor sister, nor their descendants,
s. 5. then the inheritance shall be divided into two moieties, one of which shall go to the paternal, the other to the maternal kindred, in the following course, That is to say:

Ib. ib. s. 6. SEC. VIII. FIRST, to the grand-father:

Ib. ib. s. 7. SEC. IX. IF there be no grand-father, then to the grand-mother, uncles, and aunts on the same side, and their descendants, or such of them as there be:

Ib. ib. s. 8. SEC. X. IF there be no grand-mother, uncle, nor aunt, nor their descendants, then to the great grand-fathers, or great grandfather if there be but one:

Ib. ib. s. 9. SEC. XI. IF there be no great grand-father, then to the great grand-mothers, or great grand-mother if there be but one, and the brothers and sisters of the grand-fathers and grand-mothers, and their descendants, or such of them as there be:

SEC. XII. AND for on in other cases without end; passing to the nearest lineal male ancestors, and for the want of them to the lineal female ancestors in the same degree, and the descendants of such male and female ancestors, or to such of them as there be: 1785. ch. 60. s. 10.

SEC. XIII. BUT no right in the inheritance shall accrue to any persons whatever, other than to children of the intestate, unless they be in being and capable in law to take as heirs at the time of the intestate's death. Ib. ib. s. 11.

SEC. XIV. AND where for want of issue of the intestate, and of father, mother, brothers, and sisters, and their descendants, the inheritance is before directed to go by moieties to the paternal and maternal kindred; if there should be no such kindred, on the one part, the whole shall go to the other part; and if there be no kindred either on the one part, or the other, the whole shall go to the wife or husband of the intestate. And if the wife or husband be dead, it shall go to her or his kindred in the like course as if such wife or husband had survived the intestate and then died entitled to the estate. Ib. ib. s. 12.

SEC. XV. AND in the cases before mentioned where the inheritance is directed to pass to the ascending and collateral kindred of the intestate, if part of such collaterals be of the whole blood to the intestate, and other part of the half blood only, those of the half blood shall inherit only half so much as those of the whole blood: But if all be of the half blood, they shall have whole portions, only giving to the ascendants (if there be any) double portions. Ib. ib. s. 13.

SECT. XVI. AND where the children of the intestate, or his mother, brothers and sisters, or his grandmother, uncles and aunts, or any of his female lineal ancestors living, with the children of his deceased lineal ancestors, male and female in the same degree, come into the partition, they shall take *per capita*, that is to say, by persons; and where a part of them being dead, and a part living, the issue of those dead have right to partition, such issue shall take *per stirpes*, or by stocks, that is to say, the share of their deceased parent. Ib. ib. s. 14.

SEC. XVII. AND where any of the children of the intestate, or their issue shall have received from the intestate in his life-time, any real estate by way of advancement, and shall choose to come into partition with the other parceners, such advancement shall be brought into hotchpot with the estate descended. Ib. ib. s. 15.

XVIII. IN making title by descent, it shall be no bar to a party that any ancestor through whom he derives his descent from the intestate, is or hath been an alien. Bastards also shall be capable of inheriting or of transmitting inheritance on the part of their mother, in like manner as if they had been lawfully begotten of such mother. Ib. ib. s. 16.

XIX. WHERE a man having by a woman one or more children, shall afterwards intermarry with such woman, such child or children, if recognized by him, shall be thereby legitimated. The issue also in marriages deemed null in law shall nevertheless be legitimate. Ib. ib. s. 17.

SECT. XX. WHENSOMEVER any lands shall descend from a person dying intestate to two or more heirs, any one of whom shall be an infant, *feme covert*, *non compos mentis*, or beyond sea, and the dividend of each heir shall not exceed the value of thirty pounds in the opinion of any court herein-after mentioned, it shall be lawful for the High Court of Chancery, or the court of the county or corporation in which such lands, or the greater quantity of them lie, to direct the sale of the said lands, and the distribution of the money arising therefrom, according to the rights of each claimant: *Provided always*, That each heir residing 1790. ch. 13. s. 1.

within this commonwealth, shall be first duly summoned to shew cause, if any he can, against such sale: and where any heir shall reside without this commonwealth, the court shall make an order for publication, which order being inserted in the Virginia Gazette for eight weeks successively, shall be considered as a summons.

1790. ch. 13.
s. 6.

XXI. ONE parcener may maintain an action of waste against another, but no parcener shall have or possess any privilege over another in any election, division, or matter to be made or done, concerning lands which shall have descended to them.

ALL and every act and acts, clauses and parts of acts heretofore made, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

PROVIDED always, That nothing herein contained shall be construed in any wise to affect any right, title, interest or claim to or in any estate in lands or tenements whatsoever, accrued before the commencement of this act, but the same shall be and remain in the same condition, as if this act had never been made.

A BILL to reduce into one Act, all Acts and Parts of Acts relating to Dower.

1705. ch. 7.
s. 8.

SECTION I. **B**E it enacted by the General Assembly, That the widow of any person dying intestate, or otherwise, shall be endowed of one full and equal third part of all the lands, tenements, and other real estate whereof her husband or any other to his use, was seized of an estate of inheritance at any time during the coverture, to which she shall not have relinquished her right of dower by deed executed, acknowledged, and recorded in the manner prescribed by law for that purpose.

1785. ch. 62.

1705. ch. 7.
s. 8.

SEC. II. AND till such dower shall be assigned, it shall be lawful for her to remain and continue in the mansion house, and the messuage or plantation thereto belonging, without being chargeable to pay the heir any rent for the same; any law, usage, or custom, to the contrary in any wise, notwithstanding.

1785. ch. 65.
s. 1.

SEC. III. AND if she be thereof in the mean time deforced, she shall have a *vicontiel* writ, in the nature of a writ *de quarentina habenda* directed to the sheriff, whereupon such proceedings and speed shall be used as hath or might have been used on the said writ of *quarentine*.

Ib. ib. s. 2.

SEC. IV. WHOSOEVER shall deforce widows of their dowers of the lands whereof their husbands died seized, or of such mansion house or plantation, if the same widows shall afterwards recover by plea, they that be convicted of such wrongful deforcement, shall yield damages to the same widows, that is to say, the value of the whole dower to them belonging, from the time of the death of their husbands unto the day that the said widows by judgment have recovered *seizin* of their dower. In a writ of dower called *unde nihil habet*, the writ shall not abate by the exception of the tenant, because the demandant hath received her dower of another man before her writ purchased, unless he can shew that the dower so received was in satisfaction of her right of dower in the lands whereof she demands dower.

Ib. ib. s. 3.

SEC. V. IN case where the husband being impleaded for land by default, the woman after his death demanding her dower, shall be heard, and if it be alledged against her, that her husband lost the land whereof the dower is demanded by judgment, whereby she ought not to have dower, and then it be enquired by what

judgment, and it be found it was by default, whereupon the tenant must answer, then it behoveth the tenant to answer further, and to shew that he had right, and hath in the aforesaid land, according to the form of the writ that the tenant before purchased against the husband. And if he can shew that the husband of such wife had no right in the lands, nor any other but he that holdeth them, the tenant shall go quit, and the wife shall recover nothing of her dower; which thing if he cannot shew, the wife shall recover her dower.

SEC. VI. AND where sometime it chanceth that a woman not having a right 1785. ch. 65.
to demand dower, the heir being within age, doth purchase a writ of dower against s. 4.
a guardian, and the guardian endoweth the woman by favor, or maketh default, or by collusion defendeth the plea so faintly, whereby the woman is awarded her dower in prejudice of the heir, it is provided, that the heir when he cometh to full age, shall have an action to demand the *seizin* of his ancestor against such a woman, like as he should have against any other deforcer; yet so that the woman shall have her exception saved, against the demandant, to shew that she had right to her dower, which if she can shew, she shall go quit, and retain her dower, and if not, the heir shall recover his demand: In like manner the woman shall be aided, if the heir or any other do implead her for her dower, if she lose her dower by default, in which case the default shall not be so prejudicial to her, but that she shall recover her dower if she have right thereto; and she shall have this writ, "Command A. that justly, &c. he render to B. who was the wife of F. so much land with the appurtenances in C. which she claims to be her reasonable dower, or of her reasonable dower, and that the aforesaid A. deforceth her, &c." And to this writ the tenant shall have his exception, to shew that she had no right to be endowed, which if he can verify, he shall go quit, if not, the woman shall recover the land whereof she was endowed before. Also widows may bequeath the crop of their ground, as well of their dowers as of other their lands and tenements.

SEC. VII. BUT if a wife willingly leave her husband, and go away and con- Ib. ib. s. 5.
tinue with her adulterer, she shall be barred forever of action to demand her dower, that she ought to have of her husband's lands, if she be convicted thereupon, except that her husband willingly, and without coercion, reconcile her, and suffer her to dwell with him; in which case she shall be restored to her action.

SEC. VIII. ALSO, if any estate be conveyed by deed or will, either express- Ib. ib. s. 6.
ly or by averment, for the jointure of the wife, in lieu of her dower, to take effect in her own possession, immediately on the death of her husband, and to continue during her life at the least, determinable by such acts only as would forfeit her dower at the common law, such conveyance shall bar her dower of the residue of the lands, tenements, or hereditaments, which at any time were her said husband's. But if the said conveyance were before the marriage, and during the infancy of the *feme*, or if it were made after marriage, in either case, the widow may, at her election, wave such jointure, and demand her dower.

SEC. IX. WHEN any conveyance intended to be in lieu of dower, shall, Ib. ib. s. 7.
through any defect, fail to be a legal bar thereto, and the widow availing herself of such defect, shall demand her dower, the estate and interest conveyed to such widow, with intention to bar her dower, shall thereupon cease and determine.

SEC. X. IF a widow be lawfully expelled, or evicted from her jointure, or Ib. ib. s. 8.
any part thereof, without any fraud or covin, by lawful entry or action, she shall be endowed of as much of the residue of her husband's lands, tenements, or hereditaments, whereof she was before dowable, as the same lands, tenements, or hereditaments, so evicted and expelled, shall amount and extend unto.

ALL and every other act and acts, clause and clauses, heretofore made, for or concerning any matter or thing within the purview of this act, shall be, and the same are hereby repealed.

A BILL to reduce into one, the several Acts concerning Guardians, Orphans, Committees, Infants, Masters, and Apprentices.

1785. ch. 86.

SECTION I. **B**E it enacted by the General Assembly, That any father even if he be not twenty-one years old, may by deed or last will and testament, either of them being executed in presence of two credible witnesses, grant or devise the custody and tuition of his child, (which had never been married) although it be not born, during any part of the infancy of such child to whomsoever he will; and such grant or devise, heretofore or hereafter to be made, shall give the grantee or devisee the same power over the person of the child, as a guardian in common socage hath, and authorize him by action of ravishment of ward or trespass to recover the child, with damages for the wrongful taking or detaining him or her, for his or her use; and for the same use to undertake the care and management and receive the profits of the ward's estate, real and personal, and prosecute and maintain any such action and suits concerning the same, as a guardian in common socage may do.

SEC. II. THE High Court of Chancery generally, and the court of every county and corporation in chancery, within the limits of their jurisdiction, shall have power from time to time to controul guardians, and hear and determine all matters between them and their wards; to require security of any guardian in socage, or statutory guardian when that caution shall seem necessary, for prevention of any damage his ward may suffer by neglect, mismanagement, or malversation; and if the security be refused or delayed, or if such guardian appear to have been guilty of a flagrant abuse of trust, to displace him, and appoint another in his stead, and to give such directions, and make such rules and orders, as they shall think fit for the government, maintenance, and education of wards, and preservation of their estates, and for the conduct of guardians.

SEC. III. EVERY court appointing a guardian shall take bond of him with sufficient security for the faithful execution of his office, and if any court omit this duty, or take such security as shall not satisfy them of his sufficiency, which may be done as well by the sureties affidavit, as otherwise, the ward by an action on the case, against the judges or justices so making default, may recover so much of the damages which the guardian and security shall be answerable for, as these shall be unable to pay.

SEC. IV. IF any guardian refuse, or be unable to give the security required of him, the court may put the estate into the hands of a curator, the fittest they can prevail upon, to undertake the care of it, to be accountable to them, and in that case shall not be sponisible for his ability; every guardian or curator to be appointed by any court, shall at the term or session next afterwards deliver into such court, an inventory upon oath of all the estate which he shall have received to be entered of record in a separate book; and such guardian or curator, and every guardian heretofore appointed, shall exhibit to such court once in every year, which if it be a county or corporation court, shall be in August, or at the next session if there be none in that month, or oftener if he shall be specially required, accounts of the produce of the estate, of the sales and disposition of such produce, and of the disbursements; which accounts shall be examined by the court, or by such persons as the court shall refer them to, and being found and certified, or reported to be properly and fairly stated, and the articles thereof to be justified by the vouchers, and the report in case of a reference being approved and confirmed by the court, shall with such certificate, or confirmation be entered of record in the book aforesaid; and if any article of such accounts at any time afterwards be excepted to by the ward, or his representative, it shall be incumbent on him to prove or shew the falsity or injustice thereof, unless notice on his behalf shall have been given at the time of passing the accounts, that such article would be excepted to, and a memorandum of that notice shall have been entered on record, or desired to be entered.

SEC. V. THE court, at any time when they shall know or have cause to suspect that the surety of a guardian is failing, may require and compel such guardian to give supplemental security, or if he refuse or neglect to do so, may displace him.

SEC. VI. A GUARDIAN who shall not deliver in such inventory and render such accounts as aforesaid, shall by order of the court to which he is amenable be summoned, and if he remain in default, be compelled to perform his duty or be displaced; for which purpose the summons or other process from a county or corporation court may be directed to, and shall be executed by the sheriff of any other county wherein the guardian may be found, and every judge or justice of the court sitting therein, at any time during the term or session in which the process ought to have been ordered, if it be not ordered accordingly, shall be amerced.

SEC. VII. IF the disbursements of the guardian, being suitable to the estate and circumstances of the ward, shall exceed the profits of his estate in any year, the balance with the allowance of the court, may be debited in the account of a succeeding year; and the balance appearing on the contrary side, may be put out to interest for the benefit of the ward, upon such security as the court shall approve, or the guardian, if it remain in his hands, shall account for the interest, to be computed from the time his accounts were or ought to have been passed.

SEC. VIII. IF any surety for a guardian by petition to the court before whom they were bound, setting forth that he apprehends himself to be in danger of suffering thereby, shall pray that he may be relieved, the court, after a summons to answer the petition shall have been served upon the guardian, or a copy of such summons shall have been left at the place of his usual abode, shall order him to give counter security, or to deliver the ward's estate into the hands of the surety, or some other person, and in that case taking sufficient security, or may make such other order for the relief of the petitioner as to them shall seem just.

SEC. IX. THE estate of a guardian not under a specific lien, shall after the 1785. ch. 61. death of the guardian be liable for whatsoever may be due from the guardian on account of his guardianship to his ward, before any other debt due from such guardian. s. 50.

SEC. X. EVERY orphan who hath no estate, or not sufficient for a maintenance out of the profits, shall by order of the court of the county or corporation in which he or she resides, be bound apprentice by the overseers of the poor until the age of twenty-one years if a boy, or of eighteen years if a girl, to some master or mistress, who shall covenant to teach the apprentice some art, trade, or business, to be particularized in the indenture, as also reading and writing, and if a boy, common arithmetic, including the rule of three, and to pay him or her three pounds ten shillings at the expiration of the time, and the indentures of such apprentices shall be filed in the office of the clerk of the county, and not transferable to any person whatsoever without the approbation of the court. Any guardian may with the approbation of that court in which his appointment shall be recorded, and not otherwise, bind his ward apprentice to such person for learning such art or trade, and with such covenants on the part of the master or mistress as the said court shall direct; and every such apprentice, with the like approbation, or any apprentice bound by his father, may with the approbation of the court of that county in which the father shall reside, after he shall be sixteen years of age, agree to serve until he shall be twenty-four years of age, or any shorter time, and such agreement entered on record shall bind him. Ib. ch. 86.

SEC. XI. WHERE any person under the age of twenty-one years is, or shall be seized or possessed of any lands, tenements, or hereditaments in trust or by way of mortgage, the guardian of such infant upon petition of one or more of the parties interested to the High Court of Chancery by order of such court, made after hearing the parties, may execute any such deed, or perform any other such act, as the trustee or mortgagee if he were of full age, might have executed or performed; and such deed or other act shall be as valid except that he shall not be bound by a warranty or other covenant contained in the deed. Also the said court may in like manner empower such guardian to make or take a surrender of a former lease, and to take or make a new lease as the case may require, and as it shall seem most for the advantage of the infant, out of whose estate any fine that may be advanced, and all other just expences that may be incurred in order to obtain a new lease to him, shall be reimbursed; and the new lease shall not only be charge- s. 1. Ib. ch. 85.

able with such fine and expences, but shall remain subject to all incumbrances which the lease surrendered would have been subject to.

1785. ch. 86. **SEC. XII.** THE court of every county, city, or borough, shall at all times
s. 2. receive the complaints of apprentices, being citizens of any one of the United States of America, who reside within the jurisdiction of such court, against their masters or mistresses, alledging undeserved or immoderate correction, insufficient allowance of food, raiment or lodging, or want of instruction, and may hear and determine such cases in a summary way, making such orders thereupon as in their judgment will relieve the party injured in future, or removing the apprentices, and binding them to other masters or mistresses, when it shall seem necessary; and may also, in the same manner, hear and determine complaints of masters or mistresses against their apprentices, for desertion without good cause.

1786. ch. 66. **SEC. XIII.** IN every case where such as be within age may sue, their next friends shall be admitted to sue for them.

1785. ch. 86. **SEC. XIV.** *AND be it further enacted,* That the courts of hustings in the
s. 3. cities of Williamsburg and Richmond, and borough of Norfolk, and all other incorporated towns, shall have the same power as is hereby given to the county courts.

ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

A BILL reducing into one, the several Acts to prevent unlawful Gaming.

22d. Geo. 2d. **SECTION I.** *BE it enacted by the General Assembly,* That all promises, agree-
ch. 25. s. 1. ments, notes, bills, bonds, or other contracts, judgments, mortgages, or other securities or conveyances whatsoever, made, given, granted, drawn, or entered into, or executed by any person or persons whatsoever, before or after passing this act, where the whole or any part of the consideration of such promise, agreement, conveyances or securities, shall be for money or other valuable thing whatsoever, won, laid, or betted at cards, dice, tables, tennis, bowles, or any other game or games whatsoever, or at any horse-race, cock-fighting, or any other sport or pastime, or on any wager whatsoever, or for the reimbursing or re-paying any money, knowingly lent or advanced at the time and place of such play, horse-racing, cock-fighting, or other sport or pastime, to any person or persons so gaming, betting, or wagering, or that shall at such time and place, so play, bet, or wager, shall be utterly void, frustrate, and of none effect to all intents and purposes whatsoever; any law, custom, or usage, to the contrary thereof in any wise, notwithstanding.

Oct. 1779. ch. **SEC. II.** ANY conveyance or lease of lands, tenements, or hereditaments,
42. s. 1. sold, demised, or mortgaged, and any sale, mortgage, or other transfer of slaves, or other personal estate, to any person, or for his use, to satisfy or secure money, or other thing by him won of, or lent, or advanced to the seller, lessor, or mortgagor, or whereof money or other thing so won or lent, or advanced, shall be part or all of the consideration money, shall inure to the use of the heirs of such mortgagor, lessor, bargainor, or vendor, and shall vest the whole estate and interest of such person in the lands, tenements, or hereditaments so leased, mortgaged, bargained, or sold, and in the slaves or other personal estate so sold, mortgaged, or otherwise transferred, to all intents and purposes, in the heirs of such lessor, bargainor, mortgagor, or vendor, as if such lessor, bargainor, mortgagor, or vendor had died intestate.

SEC. III. IF any person or persons whatsoever, at any time hereafter, with- 22d Geo. 2d;
in the space of twenty-four hours, by playing at any game or games whatsoever, ch. 25. s. 3.
or by betting on the sides or hands of such as do play at any game or games, shall
lose to any one or more person or persons so playing or betting, the sum or value
of forty shillings or more in the whole, and shall pay or deliver the same, or any
part thereof, the person or persons so losing and paying, or delivering the same,
shall be at liberty within three months then next following, to sue for and recover
the money or goods so lost and paid, or delivered, or any part thereof, from the
respective winner or winners thereof, with costs of suit, by action of debt,
founded on this act, to be prosecuted in any court of record within this common-
wealth, where the sum or value thereof shall be recognizable; in which action,
it shall be sufficient for the plaintiff to alledge that the defendant is indebted to the
plaintiff, or received to the plaintiff's use the money so lost and paid, or converted
the goods won of the plaintiff to the defendant's use, whereby the plaintiff's action ac-
crued to him, according to the form of this act, without setting forth the special matter;
and in case the party losing such money or other thing as aforesaid, shall not within the
time aforesaid really and *bona fide*, without covin or collusion, sue, and with effect pro-
secute for the money or other thing so lost and paid or delivered, it shall and may be
lawful to and for any other person or persons by any such action or suit as aforesaid to
sue for and recover the same, and treble the value thereof, with costs of suit against
such winner or winners as aforesaid; the one moiety thereof to the use of the per-
son or persons suing for the same, and the other moiety to the use of the parish
where such offence shall be committed; and every person who by virtue of this pre-
sent act, shall or may be liable to be sued for monies or other things so won as
aforesaid, shall be obliged and compellable to answer upon oath, such bill or bills as
shall be preferred against him or them, for discovering the money or other things
so won at play as aforesaid.

SEC. IV. *PROVIDED* always, That upon discovery and repayment of the 1b. ib. s. 4.
money, or other thing, so to be discovered and repaid as aforesaid, the person and
persons discovering and repaying the same, shall be acquitted, indemnified, and dis-
charged from any further or other forfeiture, punishment, or penalty which he or
they may have incurred by the playing for and winning such money or other thing
so discovered and repaid.

SEC. V. AND to prevent gaming at ordinaries, and other public places, 1b. 1b. s. 5.
which must be often attended with quarrels, disputes, and controversies, the im-
poverishment of many people and their families, and the ruin of the health, and cor-
ruption of the manners of youth, who upon such occasions frequently fall in com-
pany with lewd, idle, and dissolute persons, who have no other way of maintaining
themselves but by gaming: *Be it further enacted*, That if any person or persons shall
at any time play in an ordinary, race-field, or any other public place, at any game or
games whatsoever, except billiards, bowles, backgammon, chess, or draughts, or shall
bet on the sides or hands of such as do game, every such person, upon conviction there-
of before any justice of peace in any county within this commonwealth, by the
oath of one or more credible witness or witnesses (which oath the said justice is
hereby empowered to administer) or by the view of such justice, or the confession
of the party accused, shall forfeit and pay five pounds current money, to be levied
by distress and sale of the offender's goods, by warrant under the hand of the justice
before whom such conviction shall be, and for the use of the poor of the parish
wherein such offence shall be committed; and moreover every person so convicted,
shall be committed to the county gaol, there to remain until he, she, or they
give sufficient security for his, her, or their good behaviour for twelve months next
after such conviction.

SEC. VI. ANY person who shall bet or play for money or other goods, or 1779. ch. 42.
who shall bet on the hands or sides of those who play at any game in a tavern, race- s. 2.
field, or other place of public resort, shall be deemed an infamous gambler, and
shall not be eligible to any office of trust or honor within this state.

SEC. VII. IF any person by playing or betting at any game or wager whatso- 1b. ib.
ever, at any time within the space of twenty-four hours, shall lose or win, to or
from another, a greater sum, or any thing of greater value than five pounds, the
loser and winner shall be rendered incapable of holding any office civil or military
within the state, during the space of two years, and moreover shall be liable to pay

ten shillings in the pound for every pound over and above the said sum of five pounds, which he shall so win or lose; and upon information thereof made to any county court, and due proof thereof had, such county court shall levy upon the goods and chattels of the offenders, the full penalty incurred, to be applied to lessening the levy of the county wherein such offence shall be committed; and upon conviction before such county court, shall incur the forfeiture hereby inflicted, and be *ipso facto* deprived of his office aforesaid.

22. G. 2. ch.
25. s. 6.

SEC. VIII. AND if any justice or justices of peace shall be present at any unlawful gaming at any time or place, except in private houses, and shall neglect to issue his warrant for levying the fine on every person so gaming or betting, every such justice shall forfeit and pay five pounds, one half to the informer, and the other half to the overseers of the poor, to the use of the poor of the parish; recoverable with costs, by action of debt or information in any county court.

Ib. ib. s. 9.

SEC. IX. AND whereas divers lewd and dissolute persons live at great expenses having no visible estate, profession, or calling to support them, but by gaming only; *Be it therefore enacted*, That it shall be lawful for any two justices of peace, in any county or corporation, to cause to come or be brought before them, every person within their respective limits whom they shall have just cause to suspect to have no visible estate, profession, or calling to maintain himself by, but for the most part supporting himself by gaming; and if such person shall not make it appear to such justices, that the principal part of his expenses is not maintained by gaming, they shall require of him sufficient securities for his good behaviour for the space of twelve months; and on refusal thereof, shall commit him to the common gaol, there to remain until he shall find such securities: and if such person shall give such securities, and afterwards within that time shall play or bet for any money or other valuable thing whatsoever, such playing or betting shall be a breach of the behaviour, and a forfeiture of the recognizance given for the same.

Ib. ib. s. 10.

SEC. X. AND to prevent quarrels happening by gaming, *It is hereby further enacted*, That if any person or persons shall assault and beat, or shall challenge or provoke to fight, any person or persons whatsoever upon account of any money or other thing won by gaming or betting, the person and persons so assaulting, beating, challenging, or provoking to fight, being thereof convicted, shall forfeit to the party grieved ten pounds current money, to be recovered with costs, by action of debt in any county court, and moreover shall be liable to the action of the party grieved, at the common law.

Ib. ib. s. 8.

SEC. XI. *AND be it further enacted*, That if any person or persons whatsoever, do or shall, at any time or times by any fraud, shift, cozenage, circumvention, deceit, unlawful device, or evil practice whatsoever, in playing at or with cards, dice, or any other game or games, or in or by bearing a share or part in the stakes, wagers, or adventures, or in or by betting on the sides or hands of such as do or shall play, win, obtain, or acquire, to him or themselves, or to any other or others, any sum or sums of money, or other valuable thing or things whatsoever, every person so winning by such ill practice, and being thereof convicted upon indictment or information, shall forfeit five times the value of the money or other thing so won, and shall be deemed infamous, and suffer such corporal punishment as in cases of wilful perjury; and such penalty shall be recoverable with costs by any person or persons suing for the same, by action of debt in any court of record in this commonwealth having cognizance thereof.

Ib. ib. s. 7.

SEC. XII. *PROVIDED always*, That any person aggrieved by the judgment of any justice of peace upon any conviction for any of the offences in this act cognizable before him, may appeal to the next court to be held for the county where such person shall be convicted, but shall give reasonable notice of such appeal to the party prosecuting him or her, and shall also enter into recognizances, with two sufficient securities, before some justice of the county wherein the judgment was given, on condition to try such appeal at the next court held for the same county after the entering such appeal, which shall be by the said court then heard and finally determined: *Provided also*, That no such judgment shall be set aside for want of form, wherein it shall appear to the court that the facts were sufficiently

proved at the trial, nor shall any judgment be removed or removeable, by appeal, or any writ or process whatsoever, into the District Court.

SEC. XIII. ALL and every keeper or keepers, exhibitor or exhibitors, of either 1787. ch. 48.
of the gaming tables commonly called A. B. C. or E. O. tables, or of a Faro s. 18.
bank, or of any other gaming table or bank of the same, or the like kind under
any denomination whatever, shall be deemed and treated as vagrants, and more-
over it shall and may be lawful for any justice of the peace or magistrate of any
corporation court, by warrant under his hand to order any such gaming table to be
seized, and publicly burnt or destroyed.

SEC. XIV. NO person in order to raise money for himself or another, shall 1779. ch. 42.
publicly or privately put up a lottery of blanks and prizes to be drawn or adven- s. 5.
tured for, or any prize or thing to be raffled or played for; and whoever shall offend
herein, shall forfeit the whole sum of money proposed to be raised by such lottery,
raffling, or playing, to the use of the commonwealth. The presiding justice as
well in the district as in all the inferior courts of law in this commonwealth, shall
constantly give this act in charge to the grand juries of their courts, at the times
when such grand juries shall be sworn.

EVERY act, or clause in any act, concerning any matter within the purview
of this act, shall be, and is hereby repealed.

A BILL against Champerty.

BE it enacted and declared by the General Assembly, That champertors be they
that move pleas and suits, and cause them to be moved, by their own pro-
curement or by others, and sue them at their own proper costs and charges, to
have a part of the land in variance, or part of the gains; and those who are con-
victed thereof by the verdict of a jury, shall be punished by imprisonment and
amercement at the discretion of the jury before whom they shall have been found
guilty, and such amercement and imprisonment shall be ascertained at the time
of such conviction.

A BILL against Hog-Stealing.

SECTION I. **B**E it enacted by the General Assembly, That if any person not being 1748. ch. 33.
a slave shall steal any hog, shoat, or pig, he or she shall for the
first offence, receive on his or her bare back, twenty-five lashes well laid on, at
the public whipping post of the county where he or she shall be convicted, or pay
ten pounds current money, to the use of the same county, towards lessening that
county levy, and shall moreover pay four hundred pounds of tobacco, for every
such hog, shoat, or pig, one half to the owner thereof, and the other half to the
informer, to be recovered with costs at the suit of the informer by action of debt in
any county court within this commonwealth; and in all suits to be brought, or in-
formations filed, against any person not being a slave, for hog-stealing, it shall be
lawful for the court to rule the defendant to give special bail, and to commit him 1769. ch. 30.
or her to prison, until he or she shall give such bail. s. 2.

SEC. II. AND if any person other than a slave, shall offend a second time and 1748. ch. 33.
be thereof convicted, he or she shall stand two hours in the pillory, on a court day,
at the court house of the county where such conviction shall be, and have both
ears nailed thereto, and at the end of two hours have the ears cut loose from the
nails, which judgment the respective county courts of this commonwealth, are

hereby empowered to give and to award execution thereupon: Saving always to the party concerned liberty of appeal to the District Court within whose jurisdiction such county shall be; such party giving bond with good security in the sum of thirty pounds current money, for his or her personal appearance in the said court, according to the appeal, and to perform and abide their award; and moreover every such offender shall pay and satisfy four hundred pounds of tobacco for every stolen hog, shoat, or pig, to the owner or informer, to be recovered as aforesaid. And if there be several offenders in one and the same fact, although but one hog, shoat, or pig be stolen; each person may be particularly prosecuted, and upon conviction shall be adjudged to suffer the punishment, and pay the whole fine as aforesaid.

SEC. III. IF any servant shall be convicted of hog-stealing, his or her master or owner shall pay and satisfy four hundred pounds of tobacco, to be recovered and divided as aforesaid, whether it be for the first or second offence, and shall be repaid for the same and costs of suit, by further service of such offender, after his or her time, due by indenture, contract, or former judgment shall be expired, at the rate of one hundred and fifty pounds of tobacco for one month's service; and judgment shall be entered up accordingly.

SEC. IV. WHEN any slave or slaves shall hereafter steal any hog, shoat, or pig, it shall be lawful for any justice of peace of the county where such offence shall be committed, upon complaint or information thereof to him made, to cause such offender or offenders and the witness or witnesses to come before him; and if upon examination, any slave or slaves appear to be guilty, to commit him, her, or them to prison, or bind every such offender with security, to appear personally before the court next thereafter to be held for his county, to answer such complaint or information, and to abide the judgment of the said court; and the justices thereof are hereby required to direct the person appointed to prosecute for the commonwealth in the same court, to exhibit a charge or complaint in writing against such slave or slaves for such offence, whereupon it shall be lawful for the said court to hear and determine the matter of such charge or complaint without any jury, and to receive as evidence against the slave or slaves so charged, the confession of the offender, the oath of one or more credible witnesses, or such testimony of negroes, mulattoes or Indians, bond or free, as to them shall seem convincing; and if, in the opinion of such court, the slave or slaves so charged, is or are guilty, every such offender for the first offence, shall receive thirty-nine lashes on his or her bare back, well laid on, at the public whipping post; and upon a second conviction shall stand two hours in the pillory, with both ears nailed thereto, and then cut loose, as is herein before directed. And if any negro, mulatto, or Indian, shall, upon due proof made, or pregnant circumstances appearing to any county court, be found to have given false testimony, on the trial of any slave for the first or second offence of hog-stealing, every such offender without further trial shall be by such court ordered to receive the same corporal punishment as the slave tried for hog-stealing would receive upon conviction. And the first justice in commission, sitting at such trial, shall, before the examination of such negro, mulatto, or Indian, charge such evidence to speak the truth, and shall also inform him or her of the consequence of giving false testimony.

SEC. V. IF any person whatsoever, shall be the third time convicted of hog-stealing, every such offender shall be adjudged a felon.

SEC. VI. IF any person shall bring, or cause to be brought to his or her own house, or any other house, or on board of any ship, sloop, or other vessel, any hog, shoat, or pig, without ears, or shall receive any such, and not immediately discover the same to a justice of the peace, he or she so offending, shall be adjudged a hog-stealer: *Provided nevertheless*, That any person may bring, or cause to be brought to his or her own, or any other house, or on board any ship, sloop, or other vessel, his or her own swine, though without ears, he or she proving the same to be his or her property.

SEC. VII. ALL tributary Indians keeping swine, shall give them the same mark, which hath been, or by the next adjacent county court shall be allowed,

to the town to which such Indians respectively belong; and if any person not being an Indian, shall buy or receive from any Indian, any pork, and cannot prove such pork to be of the proper mark of the town of Indians to which the Indian of whom the same was bought or received, shall belong, he or she so offending, shall forfeit and pay one thousand pounds of tobacco, one half to the commonwealth, and the other half to the informer; to be recovered with costs, by action of debt in any court of record within this commonwealth.

ALL and every act, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

A BILL to prevent malicious Maiming and Disfiguring.

BE it enacted by the General Assembly, That if any person or persons shall unlawfully cut out, or disable the tongue, put out an eye, slit a nose, bite, or cut off a nose or lip, or cut off or disable any limb or member of any person whatsoever, within the commonwealth, in so doing to maim or disfigure, in any of the manners before mentioned, such person; the person or persons so offending, their counsellors, aiders, and abettors, knowing of, and privy to the offence, shall be, and are hereby declared to be felons, and shall suffer as in case of felony. 25th. Geo. 2d.
ch. 6.
1788. ch. 28.

ALL other acts, within the purview of this act, shall be, and are hereby repealed.

A BILL concerning Bastards, and to prevent the destroying and murdering of Bastard Children.

SECTION I. **BE** it enacted by the General Assembly, That from and after the passing of this act, if any single woman, not being a servant, or slave, shall be delivered of a bastard child, which shall be chargeable, or likely to become chargeable to any county, and shall upon examination to be taken in writing, upon oath, before any justice of the peace of the county so chargeable, or so liable to become chargeable, accuse any person, not being a servant or slave, with being the father of such bastard child, it shall and may be lawful for any justice of the peace of the county wherein the person so accused shall be a resident, or an inhabitant, on application made to him by the overseers of the poor, or any one of them, for the county wherein such child shall be born, to issue his warrant for the immediate apprehending the person so accused as aforesaid, and the same proceedings shall be had thereon, as is directed by an act, intituled, "An act providing for the poor, and declaring who shall be deemed vagrants." n. 167

SEC. II. EVERY bastard child that is chargeable, or liable to become chargeable to any county, shall be bound apprentice by the overseers of the poor of such county, under the direction of the court, as is prescribed by the said act last recited.

SECT. III. IF any woman servant shall be delivered of a bastard child within the time of her service, in recompence of the loss and trouble occasioned her master or mistress thereby, she shall for every such offence, serve her master or owner one whole year after her time by indenture, custom, or former order of court shall be expired, or pay her master or owner one thousand pounds of tobacco. And the reputed father, if free, shall give security to the overseers of the poor where the child shall be, to maintain such child, and keep the county indemnified, or be compelled thereto by order of the county court, upon the complaint of the said

overseers of the poor; but if a servant, he shall make satisfaction to the county, for keeping the said child after his time by indenture, custom, or order of court, to his then present owner or master shall be expired, or shall be compelled thereto by order of the county court, upon complaint of the overseers of the poor of that district wherein the child shall be born.

SEC. IV. AND if any woman servant shall be got with child by her master, neither the said master nor his executors, administrators, nor assigns, shall have any claim of service against her for or by reason of such child, but she shall when her time due to her said master by indenture, custom, or order of court shall be expired, be sold by the overseers of the poor for that district wherein such child shall be born, for one year, or pay one thousand pounds of tobacco; and the said one thousand pounds of tobacco, or whatever she shall be sold for, shall be employed by the overseers of the poor for the use of their county.

SEC. V. AND if any woman servant shall have a bastard child by a negro or mulatto, over and above the year's service due to her master or owner, she shall immediately upon the expiration of her time, to her then present master or owner, pay down to the overseers of the poor of that district wherein such child shall be born, for the use of their county, fifteen pounds current money of Virginia, or be by them sold for five years to the use aforesaid. And if a free christian white woman shall have a bastard child by a negro or mulatto, for every such offence, she shall within one month after her delivery of such bastard child, pay to the overseers of the poor of the district wherein such child shall be born, for the use of their county, fifteen pounds current money of Virginia, or be by them sold for five years to the use aforesaid. And in both the said cases, the overseers of the poor shall bind the said child to be a servant, until it shall be twenty-one years of age, if a male, or eighteen years of age, if a female.

SEC. VI. AND whereas several lewd women that have been delivered of bastard children, to avoid their shame, and to escape punishment, do secretly bury, or conceal the death of their children; and after if the child be found dead, the said woman doth alledge that the said child was born dead, whereas it falleth out sometimes, (although hardly it is to be proved) that the said child or children were murdered by the said women their lewd mothers, or by their assent or procurement: For preventing therefore, of this great mischief,

SEC. VII. *BE it further enacted,* That if any white or other woman, not being a slave, shall hereafter be delivered of any issue of her body, male or female which being born alive, should by law be a bastard, and that she endeavour privately either by drowning or secret burying thereof, or any other way, either by herself or the procuring of others, so to conceal the death thereof as that it may not come to light, whether it were born alive or not, but be concealed, in every such case, the mother so offending, shall suffer death as in case of murder, except such mother can make proof by one witness at the least, that the child, whose death was by her so intended to be concealed, was born dead.

ALL and every other act and acts, and clause or clauses of acts heretofore made for so much thereof as relates to any thing within the purview of this act (except as herein after provided) are repealed.

PROVIDED always, That nothing in this act contained, shall be construed to repeal an act, intituled, "An act to prevent the destroying and murdering of bastard children," or any other act, for so much thereof as relates to any offence within the purview thereof, committed or done before the commencement of this act; nor shall this act be construed to repeal one act passed at the present session of Assembly, intituled, "An act providing for the poor, and declaring who shall be vagrants;" nor one other act also passed at this present session, intituled, "An act concerning guardians, orphans, committees, infants masters, and apprentices.

A BILL declaring the Punishment of the Vice of Buggery.

BE it enacted and declared by the General Assembly, That if any do commit the detestable and abominable vice of buggery with man or beast, he or she so offending, shall be adjudged a felon, and shall suffer death as in case of felony, without the benefit of clergy. Stat. 25. H. 8. ch. 6.

A BILL declaring the Punishment of Horse-Stealers and their Accessories; and reducing into one, the several Acts to encourage the Apprehenders of Horse-Stealers.

SECTION I. **BE** it enacted and declared by the General Assembly, That if any person do feloniously take or steal any horse, mare, or gelding, foal, or filly, the person so offending shall not be admitted to have or enjoy the benefit of clergy, but shall be utterly excluded thereof, and shall suffer death as in case of felony. Stat. 37. H. 8. ch. 8. 2 & 3. Ed. 6. ch. 33.

SEC. II. **AND** forasmuch as felons are much encouraged to steal horses, because a great number of persons make a trade to receive and buy of such felons the horses by them feloniously taken, and also do make it their business to conceal such offenders after the said fact, knowing such felonies to be by them committed: *Be it therefore enacted*, That if any person or persons, shall receive or buy any horse that shall be feloniously taken or stolen, from any other person, knowing the same to be stolen, or shall harbour or conceal any horse-stealer, knowing him, her, or them to be so, such person or persons shall be taken and received as accessory or accessories to the said felony; and being of either of the said offences legally convicted, by the testimony of one or more credible witness or witnesses, shall incur and suffer the pain of death as a felon convicted. 1748. ch. 34. s. 14.

SEC. III. *PROVIDED* always, That if any such principal felon cannot be taken, so as to be prosecuted and convicted of any such offence, yet nevertheless it shall and may be lawful to prosecute and punish every such person and persons, buying or receiving any horses stolen by any such principal felon, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, or other such corporal punishment as the court shall think fit to inflict, although the principal felon be not before convicted of the said felony; which shall exempt the offender from being punished as accessory, if such principal felon shall be afterwards taken and convicted. Ib. Ib. s. 15.

SEC. IV. **WHOSOEVER** shall apprehend one charged with horse-stealing, if the prisoner be convicted of that crime, shall be entitled to a reward of five pounds from the treasurer, upon a certificate from any of the district courts of this state, that the claimant was the apprehender, and either that he was not examined as a witness at the trial, or that the other evidence then given, was sufficient without his testimony to convict the prisoner. 22. Geo. 2. ch. 34. s. 11. 1786. ch. 47. 1789. ch. 1.

SEC. V. **THE** legal representative of any person killed in endeavouring to apprehend any horse-stealer, shall receive the sum of fifty pounds, to be paid by the treasurer, upon the order of the auditor, which he is hereby directed to issue upon a certificate delivered under the hands and seals of two justices of the peace of the county where the fact was committed, that such person was so killed, which certificate the said justices, upon sufficient proof before them made, are required immediately to give. 22. Geo. 2. ch. 34. s. 11.

ALL and every act or acts, statute or statutes, clause or clauses of acts, coming within the purview of this act, (except as herein after provided) shall be, and the same are hereby repealed.

PROVIDED nevertheless, That nothing herein contained shall be construed to repeal any such statute or acts, for so much of any of them as may relate to any offence within the purview thereof, committed or done before the commencement of this act.

A BILL providing for the Poor, and declaring who shall be deemed Vagrants.

SECTION I. **B**E it enacted by the General Assembly, That the court of every county within this commonwealth, after the expiration of the period during which the present overseers of the poor for the respective counties are to continue in office under the last general election, or before that period, as herein after directed, shall cause their said county to be laid off into convenient districts, not exceeding four in each county, and shall direct the sheriff of the county to cause publication to be made, that on some day to be appointed by the said court, an election will be held within each district, to consist of freeholders and house-keepers only, for the purpose of choosing three discreet and fit persons, being freeholders of, and resident within the same, who shall be called and denominated overseers of the poor, and shall continue and be in office for and during the term of three years, at the expiration whereof other triennial elections shall be made in the same manner, but the general elections shall in all cases be computed from the first day of April in the year in which they shall be made, notwithstanding the time of service shall thereby be made shorter than this act directs; the county court may at any session within six months before the first day of April, which will be in the year in which the general election of overseers is to be held, enter into the measures directed by this act for regulating the same, and may fix on some convenient day for holding the said elections.

SEC. II. AND the said courts respectively, shall appoint some person in each district to superintend the election; and if any person so appointed, shall refuse or neglect to serve, without reasonable excuse, he shall forfeit and pay for every such refusal or neglect, the sum of ten pounds; to be recovered for the use of the poor of the county, in any court of record, by action of debt, or information, founded on this act, together with costs. And the person who shall be appointed to superintend any election, shall return the names of the person or persons chosen, to the clerk of the county, who shall thereupon issue a writ to the sheriff of the county, commanding him, that ten days before the ensuing court-day, he shall inform the said person or persons, that he or they hath or have been elected overseer or overseers of the poor; and require him or them to appear at the next court-day, and make oath that he or they will truly and faithfully administer the said office. And any person being duly elected, who shall refuse or neglect to serve as an overseer of the poor in the county of which he is an inhabitant, unless disqualified by age, or other infirmity, such disqualification to be judged of by the county court, shall forfeit and pay ten pounds; to be recovered with costs, by action of debt, or information, in any court of record within this commonwealth: *Provided*, That no person shall be compelled to serve more than three years, nor be subject to the penalty for refusing more than once in every term of nine years.

1791. ch. 20.
s. 1.

SEC. III. WHENEVER it shall so happen that the person appointed to superintend the election of overseers of the poor in any district, shall fail to attend agreeable to his appointment, or in case there be no election, on account of the non-attendance of the electors, or in case of the death, refusal, or disability of any overseer or overseers of the poor, the county court shall, and they are hereby required at their next court, to fill any vacancy that may so happen, by appointing persons to serve for the same time such person or persons should otherwise remain in office.

SEC. IV. THE overseers of the poor in every county, although in different districts, shall meet annually, at some convenient place to be appointed by a majority of them, on the first Monday in September, but if the number required by law shall not assemble on that day, it shall be lawful for a sufficient number to meet and perform the business on any subsequent day in the said month. The overseers

of the poor of the different districts, if there be more than one in the county, shall bring with them to such annual meeting, a distinct state of the number, names, and situation of the poor, and an account of their expenditures in their respective districts; and a majority of the overseers of the poor in the county so meeting, and there being in such majority at least one overseer of the poor from each district, shall choose a president, and shall be empowered to regulate the necessary provisions to be made for all the poor of the county, exclusive of the poor of any corporate town, for the succeeding year, as well as to adjust and settle the charges of supporting and maintaining the poor the preceding year, and to levy and assess upon all such taxables of their county as are subject to county levies, except the inhabitants of any corporate town, and settle the amount of the poor-rate upon each such taxable in specie; for which purpose the clerk of the county shall furnish the said overseers with a certified copy of the list of all such taxables in the county, exclusive of those in any corporate town within the same, if any such there be.

SEC. V. THE overseers of each district shall provide for the poor, lame, blind, and other inhabitants of the district not able to maintain themselves, and may also provide houses, nurses, and doctors, in such cases as they, or a majority of them, shall think necessary; the expences of which shall be provided for in the succeeding levy.

SEC. VI. IF any poor person shall suppose that he, or she, is entitled to the benefit of the laws for the relief of the poor, and the overseers of the district in which he or she resides, shall refuse to give such person the benefit thereof, upon application of such person, the county court may, if they think proper, direct the overseers to receive him or her upon their lists of poor. The overseers of each district shall take effectual measures to prevent the poor resident within the same, from strolling into another county; and each of the overseers within a county, may make complaint before a justice of the peace, that any poor person or poor persons, is or are come into their county, and is or are likely to become chargeable thereto; whereupon it shall be lawful for such justice, by warrant under his hand, to cause such poor person to be removed to the county or district where he or she was last legally settled: but if such poor person be sick or disabled, and cannot be removed without danger of life, the overseers shall provide for his or her maintenance or cure, at the charge of their county, and after recovery, shall cause him or her to be so removed, and the county or district wherein he or she was last legally settled, shall repay all charges occasioned by the sickness, maintenance and cure of such poor person, and for removing him or her, and also all charges and expences if such person shall die before removal. And if the overseers of the county or district to which such poor person belongs, shall refuse to receive and provide for the person or persons so removed, every overseer so refusing, shall forfeit and pay twenty pounds. And if the overseers of the poor where such poor person was last legally settled, shall refuse to pay and satisfy all the charges and expences aforesaid, the same may be recovered from them by suit, to be brought in the names of the overseers by whom such disbursement may have been made, with the costs of such suit, in any court of record.

SEC. VII. WHERE any dispute shall arise respecting the residence of any poor persons, the court of any county adjacent, is authorized to take cognizance thereof, and to determine the same.

SEC. VIII. THE overseers of the poor of each district shall monthly make returns to the court of their county of the poor orphans in their district, and of such children within the same, whose parents they shall judge incapable of supporting them, and bringing them up in honest courses; and the said court is hereby authorized to direct the said overseers, or either of them, to bind out such poor orphans and children apprentices to such person or persons as the court shall approve of, until the age of twenty-one years if a boy, or eighteen years if a girl; on the terms prescribed and directed by the act "concerning guardians, orphans, committees, infants, masters, and apprentices."

SEC. IX. AND the overseers of the poor shall also be, and they are hereby empowered and required at their annual meeting to appoint a collector of such

county poor-rate, and to take from him bond with sufficient security, in a sum double the amount of the sum to be collected by him, payable to their president for the use of the said overseers of the poor, to be applied towards lessening the county poor-rate, and conditioned for the faithful and diligent collection of the said poor-rate, and the payment to the several persons respectively entitled thereto, of the sums of money or tobacco due to them according to the entries and accounts of the said overseers of the poor, (a copy of which shall be delivered to such collector) and also for settling with the said overseers of the poor or their successors, at their next annual meeting, a just and true account of all his receipts and disbursements, with proper vouchers, and paying whatever balance shall, upon such settlement, appear to be in his hands.

SEC. X. THE said collector shall be allowed the same commission for receiving the poor-rate, as the sheriff is by law allowed for receiving county levies, and shall be subject to the same rules and regulations, and shall have the power of distress in case of non-payment of any person chargeable therewith, immediately after the tenth day of April in every year.

SEC. XI. IT shall be the duty of the sheriff of every county, and of the serjeant of any city or borough, if appointed by the overseers of the poor to collect any poor-rate, to collect and account for the same, and they shall be liable to all things required and imposed on a collector of such rate by law. Any sheriff or serjeant refusing to undertake such collection, shall forfeit and pay the sum of fifty pounds, to be recovered in manner aforesaid, for the use aforesaid.

1791. ch. 20.
s. 5.

SEC. XII. IN case of the death of any person appointed to collect the poor rates at any time before his collection begins, the overseers of the poor shall and may have power to assemble and appoint another collector, of whom they shall take bond with sufficient security, in the same manner as is directed to be taken of a collector appointed at their annual meeting; which collector shall have the same powers, and be subject to the same rules and regulations, and be moved against in the same manner, as other collectors of the poor-rates.

SEC. XIII. IT shall be lawful for such collector to appoint one or more deputies to assist him in the collection of the poor-rate, for whose conduct he shall be answerable, which deputies shall have the same powers as the collector himself; and if such collector shall refuse or neglect to settle his accounts with the overseers of the poor, as herein before directed, or shall fail or refuse to pay them any money or tobacco which shall be in his hands, or in the hands of any of his deputies, or shall delay or refuse to pay off the several claims to the persons respectively entitled thereto, by order of two or more overseers, on or before the first day of May annually, it may and shall be lawful for the court of the county and corporation wherein such collector was appointed, upon the motion of the overseers of the poor, or of any of the persons having legal claims, to grant judgment against such collector and his securities for the sums of money or tobacco respectively due to the said overseers, or to such legal claimants, with costs; provided such collector and his securities have ten days previous notice of such motion. And such collector shall have the same remedy and mode of recovery against his deputies or either of them, and their securities respectively, for any sums of money which, by virtue of this act, such collector may be subjected to the payment of, on account of the transactions of any of his deputies.

Ib. ib. s. 4.

SEC. XIV. WHENSOMEVER any overseer or overseers of the poor have, or may hereafter receive of the collectors of the poor-rates, any money or tobacco, and shall fail to pay the same to the person or persons entitled thereto, when demanded, such person or persons, their heirs, executors, or administrators, shall have the same remedy against such overseer or overseers, their heirs, executors, or administrators, as he, or they, might have had against the collector if the money or tobacco had remained in his hands.

SEC. XV. THE overseers of the poor at their annual meeting, shall be, and they are hereby empowered to settle the accounts of the former overseers, and to receive from them any sums of money which shall be in their hands, and to call upon the collector or collectors heretofore appointed by any vestry, or by any former overseers for a settlement of their accounts, and payment for any balances which shall be in their hands; and on failure of such payment they shall have the same mode of recovery, as is directed by this act, for the recovery of money or tobacco in the hands of a collector of their own appointment.

SEC. XVI. THE said overseers of the poor shall also be and are hereby empowered to levy in the manner before directed such sums of money or tobacco as shall be necessary to pay any arrears which may be due and unpaid by any parish or district to individuals.

SEC. XVII. ALL the proceedings and accounts of the overseers of the poor shall be regularly entered in a book, and shall be signed by the members present at each annual meeting; and for this purpose the said overseers of each county or a majority of them, shall be, and are hereby empowered to appoint a clerk, and at any time upon his misbehaviour or neglect of duty to remove him and appoint another in his stead, and to make such clerk an allowance not exceeding five pounds annually for his services.

SEC. XVIII. AT the said annual meeting each of the overseers of the county who are present shall have a vote, and if upon any such vote, they be equally divided, the question shall be decided in favor of that side on which the president shall have voted.

SEC. XIX. THE overseers of the poor if they demand the same shall be allowed six shillings each, to be charged in their account of other expenditures, for every day they shall attend the before mentioned annual meeting; and shall be subject to a penalty of the like sum for every day each of them respectively shall fail to attend the same, to be computed in both cases from the first day of such annual meeting during the continuance thereof; and their clerk shall in like manner be subject to the penalty of twelve shillings for every day he shall fail to attend such annual meeting, unless such overseers of the poor, or their clerk respectively, shall be prevented from attendance by sickness, or other unavoidable accident; to be recovered with costs by warrant before any justice of the peace for the county.

SEC. XX. THE courts of the several counties within this commonwealth are hereby empowered and required, upon application, to exempt from the payment of poor-rates all such persons as from age or infirmities are, or may hereafter be entitled to an exemption from the payment of public taxes; and all those persons who have been exempted heretofore from the payment of public taxes, are hereby exempted from the payment of the said poor-rates.

SEC. XXI. THE overseers of each district shall in the month of June in each year, settle their accounts with the county court, and the money which shall remain in their hands, or in the hands of their collector unappropriated shall be deducted from the rate to be made for the ensuing year.

SEC. XXII. IF any single woman, not being a servant or slave, shall be delivered of a bastard child, which shall be chargeable or likely to become chargeable to any county, and shall upon examination before any justice of the peace of the county to be taken in writing upon oath, charge any person not being a servant with being the father of such bastard child, it shall and may be lawful for any justice of the peace of the county wherein the person so charged shall be a resident or inhabitant upon application made to him by the overseers of the poor, or any one of them, of the county wherein such child shall be born, to issue his warrant for the immediate apprehending the person so charged as aforesaid, and for bringing him before such justice

or before any other justice of the peace of the county wherein he is a resident or inhabitant; and the justice before whom such person shall be brought, is hereby authorized and required to commit the person so charged as aforesaid, to the common gaol of his county, unless he shall enter into a recognizance with sufficient security in the sum of ten pounds, upon condition to appear at the next court to be held for such county, and to abide and perform such order or orders as shall be made by the said court. And if, upon the circumstances of the case, the court shall adjudge the person so charged to be the father of such bastard child, and that such child is likely to become chargeable to the county, they shall and may in their discretion take order for keeping such bastard child, by charging the father with the payment of money or tobacco for the maintenance of such child, in such manner and in such proportions as they shall think meet and convenient, and for such time as such child is likely to become chargeable to the county, and no longer. And the father of such child shall enter into a recognizance with sufficient security before the said court, in such sum as the said court in their discretion, shall think fit, payable to the governor of this commonwealth for the time being, and his successors, to observe and perform such order or orders of the court, as aforesaid. And if the father charged with the maintenance of such bastard child as aforesaid, shall make default, and not pay the money or tobacco so as aforesaid charged upon him by order of the said court, to the overseers of the poor, for the maintenance of such child, the court before whom the recognizance was entered into, shall from time to time upon the motion of the overseers of the poor, or any one of them, enter up judgment and award execution for the money or tobacco in such order or orders mentioned, as the same shall become due against the said father and his securities, their executors or administrators; provided ten days notice be given to the parties against whom such motion is made before the making thereof. And if the father of such child shall refuse to enter into recognizance as aforesaid, such father shall be committed by the said court to the common gaol of the county, there to remain without bail or mainprize, until he shall enter into such recognizance as aforesaid, or until he shall discharge himself by taking the oath of an insolvent debtor, and delivering in a schedule of his estate in manner directed by the laws for debtors in execution, (and which estate shall by order of the court be applied towards indemnifying the county) or until the overseers of the poor shall consent to his discharge.

SEC. XXIII. *PROVIDED* always, That it shall not be lawful for any justice or justices of the peace, to send for any woman whatsoever before she shall be delivered, in order to her being examined concerning her pregnancy, or to compel her to answer any questions, relating thereto, before her delivery.

SEC. XXIV. IF any single woman, not being a servant, shall be delivered of a bastard child, she shall be liable to pay the sum of twenty shillings to the overseers of the poor of that county wherein she shall be delivered, to be recovered with costs before a justice of the peace, and on such judgment execution may issue as in other cases; but the person so convicted shall not be liable to be whipped for failing to make payment or to give security for such fine, any law to the contrary notwithstanding; which fine shall be applied by the overseers of the poor, to the use of the poor of their county.

SEC. XXV. EVERY such bastard child may be bound apprentice by the overseers of the poor of the district for the time being wherein such child was born, every male until he attains twenty-one years, and every female until she attains eighteen years, and no longer; and the master or mistress shall be subject to the same conditions as are prescribed in the case of an apprentice, by the act, intituled, "An act concerning guardians, orphans, committees, infants, masters, and apprentices."

SEC. XXVI. THE overseers of the poor appointed by this act shall perform the duties required to be performed in and by an act, intituled, "An act reducing into one, the several acts concerning the land-office; ascertaining the terms of granting waste and unappropriated lands; for settling the titles and bounds of land; directing the mode of processioning; and prescribing the duty of surveyors."

SEC. XXVII. THE overseers of the poor, or any one of them, shall be, and are hereby empowered, upon discovering any vagrant or vagrants within their re-

spective districts, to make information thereof to any justice of the peace for the county, and to require a warrant for apprehending such vagrant or vagrants, to be brought before him or some other justice of the peace for the county; and if upon due examination it shall appear to such justice, that the person or persons are within the true description of a vagrant as herein after mentioned, such justice shall, by warrant under his hand, order such vagrant or vagrants to be delivered to some one of the overseers of the poor of the district in which such vagrant or vagrants shall have been apprehended, to be employed in labour for any term not exceeding three months, and by the said overseer of the poor hired out for the best wages that can be procured, to be applied to the use of the poor. And if any such vagrant or vagrants shall during such time of service, run away from the person so employing him or them, he or they shall be dealt with in the same manner as other runaway servants.

SEC. XXVIII. THE corporation courts of the several corporate towns within this commonwealth, shall be, and they are hereby respectively empowered, and required to provide for and maintain the poor within the limits of their respective towns, separately and distinctly from the poor of the county; and any two magistrates of any such corporation court, shall be, and are hereby empowered by warrant under their hands, to cause to be removed any poor person to the last place of his or her legal residence, who hath not been resident within the limits of such town for one year last past before such removal. And in like manner the overseers of the poor within the county, shall be, and they are hereby empowered, by warrant under the hands of any two of them, to cause to be removed into any corporate town any poor person whose residence shall have been within the limits of such town for one year last past before such removal; except in both cases such poor persons only as have been lodged in any poor house at any time during the last two years, who shall be respectively returned to, and maintained by the county or town, according to their respective usual residence in either.

SEC. XXIX. THE said corporation courts, shall be, and they are hereby respectively empowered, whenever they shall judge it necessary, to provide or build a poor-house, and work-house for the reception of their poor, and for the reformation of vagrants, and to employ a proper person or persons as stewards or managers thereof, subject to the direction and controul of such corporation court.

SEC. XXX. AND the said corporations shall be, and they are hereby respectively empowered and required to levy and assess annually upon their respective towns, either by way of poll-tax upon the inhabitants, or by a tax upon houses or other property within the limits of the town, as they shall judge best, all charges incurred for the support and maintenance of their poor; and also the charges which may be incurred in providing or building a poor-house, and work-house, and in the government and management of the same.

SEC. XXXI. THE inhabitants of any such corporate town not having a freehold estate in the county without the limits of the town, shall be disabled from voting in any election of the overseers of the poor in the respective counties, nor shall any inhabitant of any corporate town be capable of serving as an overseer of the poor in any county.

SEC. XXXII. IT shall and may be lawful for any magistrate of any such corporation court, upon discovering any vagrant or vagrants within the limits of the town, to issue his warrant for apprehending such vagrant or vagrants for examination; and if upon such examination before two magistrates of the corporation court, it shall appear that the person or persons so apprehended, are within the true description of a vagrant as herein after mentioned, the said two magistrates shall be, and are hereby empowered by warrant under their hands, to commit such vagrant or vagrants to the workhouse, there to be employed in labour for any term not exceeding three months; and if there be no workhouse in such town, the said two magistrates may, and they are hereby empowered, to proceed with such vagrant or vagrants in the same manner as the overseers of the poor are herein before directed to proceed, upon any vagrant or vagrants being delivered to them.

SEC. XXXIII. ANY able bodied man, who, not having wherewithal to maintain himself, shall be found loitering, and shall have a wife or children, without means for their subsistence, whereby they may become burthenome to their county or town ; and any able bodied man without a wife or children, who, not having wherewithal to maintain himself, shall wander abroad, or be found loitering without betaking himself to some honest employment, or shall go about begging, or shall not pay his legal taxes, shall be deemed and treated as a vagrant.

SEC. XXXIV. ALL and every keeper or keepers, exhibitor or exhibitors of either of the gaming tables commonly called A. B. C. or E. O. tables, or of a Faro bank, or of any other gaming table or bank, of the same or the like kind under any denomination whatever, shall be deemed and treated as vagrants. And moreover, it shall and may be lawful for any justice of the peace, or magistrate of any corporation court by warrant under his hand, to order any such gaming table to be seized, and publicly burnt or destroyed.

SEC. XXXV. SO much of the clause respecting vagrants or idle persons not having wherewithal to maintain themselves in the act, intituled "An act concerning seamen," as is contrary to this act, shall be, and is hereby repealed.

SEC. XXXVI. ALL the forfeitures and penalties inflicted by this act shall be one half to the informer, and the other half to the use of the overseers of the poor for the county ; to be applied by them towards the support and maintenance of such poor.

SEC. XXXVII. AND for determining what shall be accounted a legal settlement within this act, *It is hereby enacted and declared,* That no person shall be accounted an inhabitant so as to have gained a legal settlement, until such person shall have been actually resident in the county wherein he shall claim a legal settlement for the space of one whole year.

SEC. XXXVIII. ALL fines and forfeitures hereafter to be inflicted under any penal law, which are appropriated to the use of the county towards lessening the levy for the support of the poor, shall be collected, levied, accounted for, and paid by the sheriffs of the counties to the overseers of the poor in their several counties respectively, in like manner, and subject to the same remedy and proceedings against them for default, as the collectors appointed by virtue of this act are subject to in default of collecting the levies imposed by virtue thereof.

SEC. XXXIX. The trustees of any religious society, shall have full power and authority to prosecute all suits heretofore instituted and now depending upon bond or otherwise, for any arrearages due to the different parishes within this commonwealth.

ALL and every act or acts, clause or clauses of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

A BILL to reduce into one, the several Acts concerning Slaves.

1785. ch. 77. SECTION I. **BE** it enacted by the General Assembly, That no persons shall henceforth be slaves within this commonwealth, except such as were so on the seventeenth day of October, in the year one thousand seven hundred and eighty-five, and the descendants of the females of them. Slaves which shall hereafter be

brought into this commonwealth, and kept therein one whole year, together, or so long at different times as shall amount to one year, shall be free.

SEC. II. EVERY person hereafter importing slaves into this com-
monwealth contrary to this act, shall forfeit and pay the sum of one thousand
pounds for every slave so imported; and every person selling or buying any such
slaves, shall in like manner, forfeit and pay the sum of five hundred pounds for
every slave so sold or bought; one moiety of which forfeitures shall be to the use of
the commonwealth, and the other moiety to him or them that will sue for the same,
to be recovered by action of debt or information, in any court of record.

Oct. 1788. ch.
1. s. 2.

SEC. III. *PROVIDED*, That nothing in this act contained shall be constru-
ed to extend to those who may incline to remove from any of the United States
and become citizens of this, if within ten days after such removal, he, or she, shall
take the following oath before some justice of the peace of this commonwealth:
"I, A. B. do swear that my removal into the state of Virginia was with no intent
of evading the laws for preventing the further importation of slaves, nor have I
brought with me any slaves with an intention of selling them, nor have any of
the slaves which I have brought with me been imported from Africa or any of
the West-India islands, since the first day of November, one thousand seven hun-
dred and seventy-eight. SO HELP ME GOD." Nor to any persons claim-
ing slaves by descent, marriage, or devise; or to any citizens of this common-
wealth, being now the actual owners of slaves within any of the United States and
removing such hither; nor to travellers and others making a transient stay, and
bringing slaves for necessary attendance and carrying them out again.

1785. ch. 77.
s. 5.

SEC. IV. NO negro or mulatto shall be a witness, except in pleas of the com-
monwealth against negroes or mulattoes, or in civil pleas, where negroes or mu-
lattoes alone shall be parties.

Ib. ib. s. 2.

SEC. V. NO slave shall go from the tenements of his master or other person
with whom he lives without a pass, or some letter or token whereby it may appear
that he is proceeding by authority from his master, employer or overseer: If he
does it shall be lawful for any person to apprehend and carry him before a justice of
the peace, to be by his order punished with stripes, or not, in his discretion.

Ib. ib. s. 3.

SEC. VI. AND if any slave shall presume to come and be upon the plantation
of any person whatsoever, without leave in writing, from his or her owner or over-
seer, not being sent upon lawful business, it shall be lawful for the owner or over-
seer of such plantation to give or order such slave ten lashes on his or her bare back
for every such offence.

22 Geo 2 ch.
31. s. 17.

SEC. VII. NO negro, mulatto, or Indian, whatsoever, shall keep or carry
any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive,
but all and every gun, weapon and ammunition found in the possession or custody
of any negro, mulatto, or Indian, may be seized by any person, and upon due
proof thereof made before any justice of the peace of the county where such seizure
shall be, shall by his order, be forfeited to the seizer for his own use; and more-
over every such offender shall have and receive by order of such justice any number
of lashes not exceeding thirty-nine on his or her bare back well laid on, for every
such offence.

Ib. . s. 18.

SEC. VIII. *PROVIDED nevertheless*, That every free negro, mulatto, or
Indian, being a house-keeper, may be permitted to keep one gun, powder and shot;
and all negroes, mulattoes and Indians, bond or free, living at any frontier planta-
tion, may be permitted to keep and use guns, powder, shot, and weapons, offensive
or defensive, by license from a justice of peace of the county wherein such planta-
tion lies, to be obtained upon the application of free negroes, mulattoes or Indians,
or of the owners of such as are slaves.

Ib. ib. s. 19.

1785. ch. 77.
s. 4. SEC. IX. RIOTS, routs, unlawful assemblies, trespasses and seditious speeches by a slave or slaves, shall be punished with stripes, at the discretion of a justice of the peace, and he who will may apprehend and carry him, her, or them, before such justice.

22. Geo. 2 ch.
31. s. 13. SEC. X. AND to prevent the inconveniencies arising from the meetings of slaves, *Be it further enacted*, That if any master, mistress, or overseer of a family, shall knowingly permit or suffer any slave not belonging to him or her, to be and remain upon his or her plantation above four hours at any one time without leave of the owner or overseer of such slave, he or she so permitting shall forfeit and pay one hundred and fifty pounds of tobacco for every such offence; and every owner or overseer of a plantation who shall so permit or suffer more than five negroes or slaves other than his or her own, to be and remain upon his or her plantation or quarter at any one time, shall forfeit and pay five shillings, or fifty pounds of tobacco for each negro or slave above that number: which said several forfeitures shall be to the informer, and recoverable with costs before any justice of peace of the county where such offence shall be committed.

Ib. ib. s. 14. SEC. XI. *PROVIDED* always, That nothing herein contained shall be construed to prohibit the negroes or slaves of one and the same owner, though seated at different quarters, from meeting, with their owner's or overseer's leave, upon any plantation to such owner belonging, nor to restrain the meeting of slaves on their owner's or overseer's business at any public mill, so as such meeting be not in the night time, nor on a Sunday; nor to prohibit their meeting on any other lawful occasion, by license in writing from their owner or overseer; nor their going to church, and attending divine service on the Lord's day, or any other day of public worship.

Ib. ib. s. 15. SEC. XII. IF any white person, free negro, mulatto, or Indian, shall at any time be found in company with slaves at any unlawful meeting, or shall harbour or entertain any slave without the consent of his or her owner, such person being thereof convicted before any justice of the peace, shall forfeit and pay fifteen shillings, or one hundred and fifty pounds of tobacco for every such offence, to the informer, recoverable with costs, before such justice; or, on failure of present payment, shall receive on his or her bare back, twenty lashes well laid on, by order of the justice before whom such conviction shall be.

Ib. ib. s. 16. SEC. XIII. AND every justice of peace, upon his own knowledge of such unlawful meeting, or information thereof to him made within ten days after, shall issue his warrant to apprehend the persons so met or assembled, and cause them to be brought before himself, or any other justice of his county, to be dealt with as this act directs; and every justice failing herein, shall forfeit and pay fifty shillings, or five hundred pounds of tobacco for every such failure; and every sheriff who shall fail upon knowledge or information of such meeting, to endeavour to suppress the same, and bring the offenders before some justice of peace to receive due punishment, shall be liable to the like penalty of fifty shillings, or five hundred pounds of tobacco; both which penalties shall be to the informer, and recoverable with costs, by action of debt, in any county court; and every under sheriff or constable, who upon knowledge or information of such meeting, shall fail to perform his duty in suppressing the same, and apprehending the persons so assembled, shall forfeit and pay two hundred pounds of tobacco for every such failure, to the informer, recoverable with costs, before any justice of the county wherein such failure shall be.

1785. ch. 77.
s. 6. SEC. XIV. NO person whatsoever, shall buy, sell, or receive of, to, or from a slave, any commodity whatsoever, without the leave or consent of the master, owner, or overseer of such slave. And if any person shall presume to deal with any slave without such leave or consent, he or she so offending, shall forfeit and pay to the master or owner of such slave, four times the value of the thing so bought, sold, or received, to be recovered with costs, by action upon the case, in any court of record within this commonwealth, and shall also forfeit and pay the further sum of five pounds, to any person who will sue for the same; to be recovered with costs, by summons and petition in the same manner as other debts not exceeding five pounds, nor under twenty-five shillings are, or receive on his or her bare back thirty-nine lashes, well laid on, at the public whipping-post: but shall nevertheless be liable to pay the costs of such summons and petition.

SEC. XV. IF any negro, mulatto, or Indian, bond or free, shall at any time lift his or her hand in opposition to any Christian, not being a negro, mulatto, or Indian, he or she so offending, shall for every such offence, proved by the oath of the party before a justice of the peace of the county where such offence shall be committed, receive thirty lashes on his or her bare back, well laid on, by order of such justice. 22. G. 2. ch. 31. s. 20.

SEC. XVI. AND whereas many times slaves run away, and lie out hid, and lurking in swamps, woods, and other obscure places, killing hogs, and committing other injuries to the inhabitants of this commonwealth: *Be it therefore further enacted*, That in all such cases, upon intelligence given of any slaves lying out as aforesaid, any two justices of the peace of the county wherein such slave is supposed to lurk, or do mischief, shall be, and are empowered and required to issue proclamation against all such slaves, reciting their names, and owners names, if known, and thereby requiring them, and every of them, forthwith to surrender themselves; and also empowering the sheriff of the said county to take such power with him as he shall think fit and necessary for the effectual apprehending such out-lying slave or slaves, and go in search of them; which proclamation shall be published on two sabbath days, at the door of every church in the said county, by the clerk or reader, immediately after divine service. And in case any slave, against whom proclamation hath been thus issued, and twice published at any church as aforesaid, stay out, and do not immediately return home, it shall be lawful for any person or persons whatsoever, to kill and destroy such slaves, by any ways or means without accusation or impeachment of any crime for the same. 1b. ib. s. 21

SEC. XVII. AND if any slave shall happen to be killed in executing such proclamation as aforesaid, or in dispersing unlawful assemblies, pursuit of rebels, or conspirators, or seizing the arms or ammunition of such as by this act are prohibited to keep the same, the court of the county where such slave shall be so killed, upon application of the owner, and due proof before them made, shall value the slave so killed, and certify such valuation to the next Session of Assembly, that a suitable allowance may be made to the owner. 1b. ib. s. 22.

SEC. XVIII. *PROVIDED always*, That no justice or justices of the peace of this commonwealth shall, by virtue of the said act, issue a proclamation against any slave authorizing any person to kill or destroy such slave, unless it shall appear to the satisfaction of such justice or justices, that such slave is out-lying and doing mischief; and if any slave shall hereafter be killed or destroyed, by virtue of any proclamation issued contrary to this act, the owner or proprietor of such slave shall not be paid for such slave by the public; any thing in this act to the contrary, or seeming to the contrary, in any wise notwithstanding. 12. G. 3. ch. 9. s. 3.

SEC. XIX. SO much of an act, intituled, "An act directing the trial of slaves committing capital crimes, and for the more effectual punishing conspiracies and insurrections of them, and for the better government of negroes, mulattoes, and Indians bond or free," as declares, that "where any slave shall happen to die by reason of any stroke or blow during his or her correction, by his or her owner, or by reason of any accidental blow whatsoever given by such owner, no person concerned in such correction or accidental homicide, shall be liable to any prosecution or punishment for the same, unless upon examination before the county court it shall be proved by the oath at least of one lawful and credible witness, that such slave was killed wilfully, maliciously, or designedly; and no person indicted for the murder of a slave, and upon trial found guilty of manslaughter only, shall incur any forfeiture or punishment for such offence or misfortune," shall be, and the same is hereby repealed. 1788. ch. 23.

SEC. XX. AND whereas by an act of the General Assembly made in the twenty-second year of his Britannic majesty George the second, intituled, "An act directing the trial of slaves committing capital crimes, and for the more effectually punishing conspiracies and insurrections of them, and for the better government of negroes, mulattoes and Indians, bond or free," the county courts within this commonwealth are empowered to punish out-lying slaves who cannot be reclaimed by dismembering such slaves, which punishment is often disproportioned to the offence, and contrary to the principles of humanity: *Be it therefore* 10. G. 3. ch. 19. s. 1.

enacted, That it shall not be lawful for any county court to order and direct castration of any slave, except such slave shall be convicted of an attempt to ravish a white woman, in which case they may inflict such punishment; any thing in the said recited act to the contrary, notwithstanding.

22d. Geo. 2d. ch. 31. s. 25. SEC. XXI. *PROVIDED* always, That nothing herein before contained shall be construed to bar the action of any person whose slave or slaves shall be killed by any other person or persons whatsoever, or shall die through the negligence of any surgeon or other person undertaking the dismembering or cure of any slave so punished by order of court, but every owner shall and may have the same remedy for the death and loss of his or her slave or slaves, as he or she might have had if this act had never been made.

Ib. ib. s. 5. SEC. XXII. IF any negro or other slaves shall at any time consult, advise, or conspire to rebel, or make insurrection, or shall plot or conspire the murder of any person or persons whatsoever, every such consulting, plotting, or conspiring, shall be adjudged and deemed felony, and the slave or slaves convicted thereof in manner herein after directed, shall suffer death, and be utterly excluded all benefit of clergy.

Ib. ib. s. 3. SEC. XXIII. AND whereas many negroes under pretence of practising physic, have prepared and exhibited poisonous medicines, by which many persons have been murdered, and others have languished under long and tedious indispositions, and it will be difficult to detect such pernicious and dangerous practices, if they should be permitted to exhibit any sort of medicine; *Be it therefore further enacted*, That if any negro or other slave shall prepare, exhibit, or administer any medicine whatsoever, he or she so offending, shall be judged guilty of felony, and suffer death without benefit of clergy.

Ib. ib. s. 4. SEC. XXIV. *PROVIDED* always, That if it shall appear to the court before whom such slave shall be tried, that the medicine was not prepared, exhibited, or administered with an ill intent, nor attended with any bad consequences, such slave shall have the benefit of clergy.

Ib. ib. s. 5. SEC. XXV. *AND provided also*, That nothing herein contained shall be construed to extend to any slave or slaves administering medicines by his or her master's or mistress's order, in his or her family, or the family of another, with the mutual consent of the owner of such slave, and the master or mistress of such family.

20. G. 3. ch. 19. s. 8. SEC. XXVI. IF any master or owner of a slave shall license such slave to go at large, and trade as a freeman, the master or owner shall forfeit and pay the sum of ten pounds current money, for the use of the poor of the district where such slave shall be found going at large and trading as aforesaid; to be recovered by the overseers of the poor, by action of debt, in any court of record within this commonwealth; and if after conviction, such slave shall be found so going at large and trading, the master or owner shall again be liable to the like penalty; to be recovered as aforesaid, and so as often after conviction, as such slave shall be found so going at large, and trading.

May 1782. ch. 32. s. 1. SEC. XXVII. IF any person shall permit or suffer his or her slave to go at large and hire him or herself out, it shall be lawful for any person to apprehend and carry every such slave before a justice of peace in the county where apprehended, and if it shall appear to the justice that such slave comes within the purview of this act, he shall order him or her to the gaol of the county, there to be safely kept until the next court, when, if it shall be made appear to the court that the slave so ordered to gaol hath been permitted or suffered to hire him or herself out, contrary to the meaning of this act, it shall be lawful for the court, and they are hereby required to order the sheriff of the county to sell and dispose of every such slave

for ready money, at the next court held for the said county, notice being given by the sheriff, at the courthouse door, at least twenty days before the said sale.

SEC. XXVIII. TWENTY-FIVE *per centum* upon the amount of the sale May 1782. ch. 32. s. 2. of every slave so going at large, and hiring out himself or herself, shall be applied by the court ordering such sale, towards lessening the county levy; and the residue shall be paid by the sheriff, after deducting five *per centum* for his trouble and the gaolor's fees, to the owner of such slave.

SEC. XXIX. IF any person shall hereafter be guilty of stealing or selling any free person for a slave, knowing the said persons so sold to be free, and thereof shall be lawfully convicted, the person so convicted shall suffer death without benefit of clergy. 1787. ch. 37. s. 2.

SEC. XXX. IF any person or persons shall steal any negro, mulatto, or Indian slave whatsoever, out of, or from the possession of the owner or overseer of such slave, the person or persons so offending, shall be, and are hereby declared to be felons, and shall suffer death without benefit of clergy. 27. Geo. 2d. ch. 2. s. 28.

SEC. XXXI. THE justices of every county shall be justices of oyer and terminer, for trying slaves charged with treason or felony; which trials shall be by five at the least, without juries, upon legal evidence, at such times as the sheriffs shall appoint, not being less than five, nor more than ten days after the offenders shall have been committed to gaol. No slave shall be condemned in any such case, unless all of the justices sitting upon his or her trial, shall agree in opinion that the prisoner is guilty. *Provided always*, That when judgment of death shall be passed upon any such offender, there shall be thirty days at least between the time of passing judgment and the day of execution, except in cases of conspiracy, insurrection, or rebellion. The value of a slave condemned to die, who shall suffer accordingly, or before execution of the sentence perish, to be estimated by the justices triers, shall be paid by the public to the owner. One being detained in slavery, and having commenced an action to assert his freedom, shall be prosecuted and tried for any such crime in the same manner as a freeman ought to be prosecuted and tried. No person having interest in a slave shall sit upon the trial of such slave. 1786. ch. 58. 1790. ch. 64. s. 1.

SEC. XXXII. AND for a declaration of what shall be deemed to be legal evidence in such cases, *It is further enacted*, That the court may take for evidence the confession of the offender, the oath of one or more credible witnesses, or such testimony of negroes, mulattoes, or Indians, bond or free, with pregnant circumstances, as to them shall seem convincing. 22. G. 2. ch. 31. s. 6.

SEC. XXXIII. WHEN any negro, mulatto, or Indian, whatsoever, shall be convicted of any offence within the benefit of clergy, judgment of death shall not be given against him or her upon such conviction, but he or she shall be burnt in the hand by the gaolor, in open court, and suffer such other corporal punishment as the court shall think fit to inflict; except where such negro, mulatto, or Indian shall be convicted of manslaughter, or the felonious breaking and entering any house in the night time, or for breaking and entering in the day time any house, and taking from thence away goods or chattels to the value of twenty shillings current money, or where he or she once had the benefit of this act; and in those cases such negro, mulatto, or Indian shall suffer death without benefit of clergy. 1b. ib. s. 8.

XXXIV. WHERE any slave shall be convicted of manslaughter, for killing a slave, such offender shall be allowed the benefit of clergy. 5. G. 3. ch. 9. s. 3.

SEC. XXXV. *PROVIDED also*, That a slave who shall break any house in the night time, shall not be excluded from clergy, unless the said breaking in the case of a freeman would be a burglary. 12. G. 3. ch. 9. s. 1.

1789 ch. 22. s. 8. SEC. XXXVI. A SLAVE shall in all cases receive the same judgment, and stand in the same condition, with respect to the benefit of clergy as a free negro or mulatto.*

22. Geo. 2 ch. 31. s. 9. SEC XXXVII. AND to the end such negroes, mulattoes, or Indians not being christians, as shall be produced as evidences on the trial of any slave for a capital crime, may be under the greater obligation to declare the truth, *It is hereby further enacted*, That where any such negro, mulatto, or Indian, shall be found upon due proof made, or pregnant circumstances appearing to any county court of this commonwealth, to have given a false testimony, every such offender shall without further trial, be ordered by the said court to have one ear nailed to the pillory, and there to stand for the space of one hour, and then the said ear to be cut off, and thereafter the other ear nailed in like manner, and cut off at the expiration of one other hour, and moreover to receive thirty-nine lashes on his or her bare back, well laid on at the public whipping-post; and at every such trial of slaves for capital offences, the person first named in the commission then sitting, shall before the examination of any negro, mulatto, or Indian, not being a christian, charge such evidence to declare the truth, which charge shall be in the words following, to wit:

"YOU are brought hither as a witness, and by the direction of the law I am to tell you, before you give your evidence, that you must tell the truth, the whole truth, and nothing but the truth; and that if it be found hereafter that you tell a lie, and give false testimony in this matter, you must for so doing have both your ears nailed to the pillory and cut off, and receive thirty-nine lashes on your bare back, will laid on at the common whipping-post."

1b. ib. s. 10. SEC. XXXVIII. *PROVIDED* always, That the master or owner of any slave may appear at such arraignment and trial, and make what just defence he can for such slave, so that such defence do not relate to any formality in the proceedings on the trial.

May 1782. ch. 21. SEC. XXXIX. IT shall hereafter be lawful for any person by his or her last will and testament, or by any other instrument in writing, under his or her hand and seal, attested and proved in the county court by two witnesses, or acknowledged by the party in the court of the county where he or she resides, to emancipate and set free, his or her slaves, or any of them, who shall thereupon be entirely and fully discharged from the performance of any contract entered into during servitude, and enjoy as full freedom as if they had been particularly named and freed by this act.

SEC. XL. *PROVIDED* always, That all slaves so set free, not being in the judgment of the court of sound mind and body, or being above the age of forty-

* By act 22. G. 2. ch. 31. s. 8. The benefit of clergy is not allowed to any negro, mulatto, or Indian whatsoever, in the cases of manslaughter, or the felonious breaking and entering any house in the night time. The act of 5. Geo. 3. ch. 9. s. 3. extends the benefit of clergy to slaves, (but not to free negroes, mulattoes, or Indians) in case of the manslaughter of a slave: and the act 12. G. 3. ch. 9. s. 1. declares that a slave convicted of house-breaking in the night time, shall not be excluded from clergy, unless such breaking be burglary in a white man. The act of 1789, ch. 22. s. 8. declares that a slave shall in all cases receive the same judgment, and stand in the same condition with respect to the benefit of clergy as a free negro or mulatto; and sec. 9 declares that nothing in that act contained, shall be construed to take away the benefit of clergy from any offence in which it is now allowed by any act of the General Assembly, or to allow it in any offence from which it is now expressly taken away by any act of the General Assembly.

From a review of those acts which are transcribed in the four last preceding sections, the committee find themselves under a difficulty—it appearing to have been the intention of the legislature in the year 1789, that free negroes, mulattoes, or Indians should not be in a worse condition than slaves, with respect to the benefit of clergy; yet they doubt whether the acts taken altogether, can receive a construction so favourable for them.

five years, or being males under the age of twenty-one, or females under the age of eighteen years, shall respectively be supported and maintained by the person so liberating them, or by his or her estate; and upon neglect or refusal so to do, the court of the county where such neglect or refusal may be, is hereby empowered and required upon application to them made, to order the sheriff to distrain and sell so much of the person's estate as shall be sufficient for that purpose. *Provided also*, That every person by written instrument in his life time, or, if by last will and testament, the executors of every person freeing any slave, shall cause to be delivered to him or her a copy of the instrument or emancipation, attested by the clerk of the court of the county, who shall be paid therefor by the person emancipating, five shillings, to be collected in the manner of other clerks fees. Every person neglecting or refusing to deliver to any slave by him or her set free such copy, shall forfeit and pay ten pounds, to be recovered with costs in any court of record, one half thereof to the person suing for the same, and the other to the person to whom such copy ought to have been delivered. It shall be lawful for any justice of the peace to commit to the gaol of his county, any emancipated slave travelling out of the county of his or her residence, without a copy of the instrument of his or her emancipation, there to remain till such copy is produced and the gaoler's fees paid.

SEC. XLI. IN case any slave so liberated shall neglect in any year to pay all taxes and levies imposed, or to be imposed by law, the court of the county shall order the sheriff to hire out him, or her, for so long time as will raise the said taxes and levies, provided sufficient distress cannot be made upon his or her estate; saving nevertheless to all and every person and persons, bodies politic or corporate, and their heirs and successors, other than the person or persons claiming under those so emancipating their slaves, all such right and title as they or any of them could or might claim if this act had never been made.

SEC. XLII. ALL negro, mulatto, and Indian slaves in all courts of judicature within this commonwealth, shall be held, taken, and adjudged to be real estate, and shall descend to the heirs and widows of persons departing this life as lands are directed to descend in and by an act of the General Assembly, intituled, "An act directing the course of descents," and one other act, intituled, "An act ———".

4. Ann. 1795.
ch. 3.

SEC. XLIII. *PROVIDED*, That all such slaves shall be liable to the payment of debts, and may be taken by execution for that end, as other chattels or personal estate may be.

Ib. ib. s. 4.

SEC. XLIV. *PROVIDED also*, That no such slave shall be liable to be escheated by reason of the decease of the proprietor of the same without lawful heirs; but all such slaves shall in that case be accounted and go as chattels, and other estate personal.

Ib. ib. s. 5.

SEC. XLV. NO person selling or alienating any such slave otherwise than by gift, marriage settlement, deed of trust, or mortgage, shall be obliged to cause such sale or alienation to be recorded.

SEC. XLVI. IT shall and may be lawful for any person to sue for and recover any slave, or damage for the detainer, trover, or conversion thereof, by action personal, as might have been done if this act had never been made.

Ib. Ib. s. 8.

SEC. XLVII. WHENEVER any person shall by bargain and sale, either with or without deed, or by his last will and testament in writing, or, by any nuncupative will, bargain, sell, dispose of, or bequeath, any slave or slaves, such bargain, sale, or bequest, shall transfer the absolute property of such slave or slaves, to such person or persons to whom the same shall be so sold or bequeathed, in the same manner as if such slave or slaves were a chattel; and no remainder of any

1. Geo. 2. c. 3.
s. 3.

slave or slaves shall or may be limited by any deed, or the last will and testament in writing of any person whatsoever, otherwise than the remainder of a chattel personal by the rules of the common law, can or may be limited, except in the manner herein after mentioned and directed.

1st. Geo. 2d. ch. 4. s. 4. SEC. XLVIII. WHERE any slave or slaves have been or shall be conveyed or bequeathed, or have, or shall descend to any *feme covert*, the absolute right, property, and interest of such slave or slaves is hereby vested, and shall accrue to and be vested in the husband of such *feme covert*; and where any *feme sole* is, or shall be possessed of any slave or slaves as of her own proper slave or slaves, the same shall accrue to, and be absolutely vested in, the husband of such *feme*, when she shall marry.

Ib. ib. s. 5. SEC. XLIX. ANY infant above the age of eighteen years, by his or her last will and testament in writing, may dispose of, and bequeath, the absolute right, property and interest, of any slave or slaves whereof he or she shall be possessed.

Ib. ib. s. 6. SEC. L. NO slave or slaves whatsoever shall be forfeited, except in such cases where the lands and tenements of the person incurring the forfeiture is, should, or might be forfeited.

Ib. ib. s. 7. SEC. LI. NO executor or administrator hath, or shall have any power to sell or dispose of any slave or slaves of his testator or intestate, except for the paying and satisfying the just debts of such testator or intestate, and then only where there is not sufficient of the personal estate of such testator or intestate to satisfy and pay such debts; and in that case it shall and may be lawful for the executor or administrator, to sell and dispose of such slave or slaves as shall be sufficient to raise so much money as the personal estate falls short of the payment of the debts.

Ib. ib. s. 13. SEC. LII. IT shall and may be lawful for any person or persons whatsoever, by deed executed in his or their lifetimes, or by his or their last will and testament, wherein any lands or tenements shall hereafter be settled, conveyed, or devised for life or lives, to settle, convey, or devise any slave or slaves; and in such deed or last will to declare that such slave or slaves and their increase, so long as any of them shall be living, shall descend, pass, and go as part of the freehold to such person or persons to whom such lands and tenements shall be so conveyed or devised, and to whom the same shall from time to time descend and come; and such declaration shall be good and effectual in law, to annex such slave or slaves to the freehold and inheritance of such lands and tenements, and they and their increase so long as any of them shall be living, shall descend, pass and go in possession, reversion and remainder, with such lands and tenements; or where any person shall by his deed executed in his lifetime, or by his last will and testament, in writing, settle, convey, or devise, any lands or tenements for life or lives, and shall in the same deed or will, settle, convey, or devise any slave or slaves with the same limitation or limitations, with which such lands and tenements shall be so settled, conveyed, or devised, such limitation or limitations shall amount to a declaration of the intent of the party settling, conveying, or devising the same, that the same should be annexed to such lands and tenements, and shall descend, pass, and go therewith, from time to time as aforesaid.†

Ib. ib. s. 18. SEC. LIII. WHERE any person or persons have, or shall have a right to demand dower, or have partition of any slave or slaves, such person or persons shall and may exhibit a bill in equity for that purpose, against the person or persons of whom the same may be demanded; and the court before whom such bill

† By the act 1. G. 2. ch. 4. sec. 15. slaves annexed to lands may be sold to pay the debts of tenant in tail for the time being, omitting the case of tenant for life or lives. That section, as also the 16th, which seems to depend upon it, are therefore omitted, referring it to the legislature, to determine whether they ought to be inserted, as applying to the case of tenant for life or lives.

shall be exhibited, shall compel the defendant or defendants to answer, and shall and may proceed upon such bill and answer, although the defendant or defendants, or any of them, be under the age of twenty-one years, according to the course and rules of equity, and shall and may make such decree for the assignment of such dower, or making such partition in such manner, as shall be most agreeable to equity, and such assignment of dower or partition, shall be as effectual as if the same were made in the ordinary methods of the common law.

SEC. LIV. IF any widow possessed of a slave or slaves, as of the dower of her husband, shall remove, or voluntarily permit to be removed out of this commonwealth, such slaves or slaves, or any of their increase, without the consent of him or her in reversion, such widow shall forfeit all and every such slave or slaves, and all other the dower which she holds of the endowment of her husband's estate, unto the person or persons that shall have the reversion thereof; any law, custom, or usage to the contrary, notwithstanding. 1785. ch. 61. s. 22.

SEC. LV. IF any widow possessed as aforesaid, shall be married to a husband, who shall remove, or voluntarily permit to be removed out of this commonwealth, any such slave or slaves, or any of their increase, without the consent of him or her in reversion, in such case it shall be lawful for him or her in reversion to enter into, possess, and enjoy all the estate which such husband holdeth in right of his wife's dower, for and during the life of the said husband. 1785. ch. 61. s. 23.

SEC. LVI. WHERE one or more slaves shall descend from a person dying intestate, and an equal division thereof cannot be made in kind, on account of the nature of the property; it shall be lawful for the High Court of Chancery, or the court of the county, or corporation, by which the administration to the estate of the intestate was granted, to direct the sale of such slave or slaves, and the distribution of the money arising therefrom, according to the rights of each claimant. *Provided always*, That each claimant shall be first duly summoned to shew cause if any he can against such sale. 1795. ch. 13. s. 2.

SEC. LVII. AND whereas many frauds have been committed by means of secret gifts made, or pretended to have been made of slaves, by parents and others, who have notwithstanding, remained in possession of such slaves, as visible owners thereof, whereby creditors and purchasers have been frequently involved in expensive lawsuits, and often deprived of their just debts and purchases: For prevention whereof, *Be it enacted*, That from and after the passing of this act, no gift or gifts of any slaves or slaves, shall be good or sufficient to pass any estate in such slave or slaves, to any person or persons whatsoever, unless the same be made by will duly proved and recorded, or by deed in writing, to be proved by two witnesses at the least, or acknowledged by the donor and recorded in the General Court, or the court of the county where one of the parties lives, within eight months after the date of such deed or writing. 1758. 32. C. 2. ch. 1. s. 1.

SEC. LVIII. THIS act shall be construed to extend only to gifts of slaves whereof the donors have, notwithstanding such gifts, remained in the possession, and not to gifts of such slaves as have at any time come into the actual possession of, and have remained with the donee, or some person claiming under such donee. 1787. ch. 22. s. 2.

SEC. LIX. *PROVIDED always*, That nothing in this act contained, shall be construed to alter any adjudication heretofore made, nor to affect the interest of any *bona fide* purchaser, for a valuable consideration, or creditor of the donor, before the donee hath been at least three years in possession of the slave or slaves under such gift, nor in any manner to restrain or affect the operation of the act of limitation. 1b. ib. s. 3.

SEC. LX. NO clerk of any court within this commonwealth, shall demand more than twenty pounds of nett tobacco for the recording any deed or instrument of writing made in pursuance of this act. 1767. 32. Geo. 2d. ch. 8. s. 4.

22. G. 2. ch.
17. 3. 1.

SEC. LXI. NO master of any ship, or any other vessel, shall transport or carry any servant whatsoever, or any negro, mulatto, Indian, or other slave out of this commonwealth without the consent or permission of the person or persons to whom such servant or slave doth of right belong, upon penalty of forfeiting and paying, in current money, fifty pounds for every servant, and one hundred pounds for every slave transported or carried hence, contrary to this act; one moiety to the commonwealth, and the other moiety to the owner of such servant or slave; to be recovered with costs, by action of debt or information, in any court of record of this commonwealth; and moreover such master shall be liable to the suit of the party grieved, at the common law, for his or her damages.

Ib. ib. s. 2.

SEC. LXII. IN any action which shall be brought against the master of a ship or vessel under this act, the court wherein the same shall be depending, may rule the defendant to give special bail, if they see cause, and shall not allow him to plead in bar or give in evidence any act or statute of limitation; any former or other law to the contrary, notwithstanding.

ALL and every act and acts, clauses and parts of acts, within the purview of this act, shall be, and are hereby repealed: *Provided nevertheless*, That all rights, remedies, fines, penalties, and forfeitures incurred or accrued under any former act, shall remain in the same condition as if this act had not been made.

A BILL to regulate the solemnization of Marriages; prohibiting such as are incestuous, or otherwise unlawful; to prevent forcible and stolen Marriages; and for punishment of the Crime of Bigamy.

SECTION I. **B**E it enacted by the General Assembly, That no minister shall celebrate the rites of matrimony between any persons, or join them together as man and wife, without lawful license, or thrice publication of banns, according to the Rubrick in the book of Common Prayer, if the parties so to be married shall be members of the Protestant Episcopal church; and if the persons to be married dwell in several parishes, the banns shall be published in each parish, and the minister of the one shall not solemnize the matrimony until he hath a certificate from the minister of the other parish, that the banns have been thrice published, and no objection made against the parties joining together. And if any minister shall celebrate the rites of matrimony, or join any persons in marriage without such license, or publication of banns, as by this act required, he shall for every such offence be imprisoned one whole year, without bail or mainprize; and shall also forfeit and pay five hundred pounds current money; and if any minister shall go out of this government, and there join in marriage any person or persons belonging to this commonwealth, without such license, or publication of banns, he shall be liable to the same penalties and forfeitures as if such marriage had been by him celebrated within this commonwealth: *Provided always*, That where any parish or parishes have not a minister, the clerk or reader may publish banns, and if no objection be made, grant certificate thereof; which, together with a certificate under the hand and seal of a justice of the peace for the said county, living in the parish where such publication shall be, certifying that the *feme* so to be joined, hath been an inhabitant of the said parish one month next before the date of such certificate, shall be sufficient for the minister to solemnize the rites of matrimony; and if any minister, clerk, or reader, shall grant or issue a false certificate, he shall suffer the imprisonment without bail, and pay the forfeiture aforesaid; and shall also be liable to be prosecuted and punished as in case of forgery. And that all or any of the offences aforesaid, may be prosecuted, tried, and determined in any court of record within this commonwealth; which courts are hereby declared to have cognizance thereof, and may hear and determine the same, and award execution thereupon, according to the course of the common law.

OA. 1784. ch.
76.

SEC. II. IT shall and may be lawful for any ordained minister of the gospel in regular communion with any society of Christians, and every such minister is hereby authorized to celebrate the rites of matrimony, according to the forms and customs of the church to which he belongs, between any persons within this

state, who shall produce a marriage license, pursuant to the directions of this act, directed to any authorized minister of the gospel. *Provided always*, That every such minister shall first produce credentials of his ordination, and also of his being in regular communion with the Christian society of which he is reputed a member, to the court of the county or borough in which he resides; shall take the oath of allegiance to this commonwealth, and enter into bond, with two or more sufficient securities, in the sum of five hundred pounds current money, payable to the Governor for the time being, and his successors, conditioned for the true and legal performance of this trust: whereupon such court is hereby required to grant such minister a testimonial in the following form, given under the hand and seal of the then sitting judge or senior magistrate, and attested by the clerk, to wit:—
 “ This shall certify to all whom it may concern, that at a court held for ———
 “ on the ——— day of ———, in the year one thousand seven hundred and
 “ ———, A. B. produced credentials of his ordination, and also of his being
 “ in regular communion with the ——— church; took the oath of
 “ allegiance to this commonwealth, and entered into bond as required by “An act to
 “ regulate the solemnization of marriages; prohibiting such as are incestuous or
 “ otherwise unlawful; to prevent forcible and stolen marriages; and for punish-
 “ ment of the crime of bigamy.” And that he is thereby authorized to celebrate
 “ the rights of matrimony agreeable to the forms and customs of the said church,
 “ between any persons to him regularly applying therefor within this state. Giv-
 “ en under my hand and seal, the day and year above written.” Every testimo-
 nial so obtained, shall be taken as good and sufficient authority for celebrating the
 rights of matrimony according to law. *PROVIDED nevertheless*, That no tes-
 timonial shall be granted to any minister who is itinerant, or who is not stated and
 settled within some parish, or with some Christian congregation within this com-
 monwealth. *Provided also*, If any authorized minister shall himself at any time
 decline, or be ejected from his office by the church to which he belongs; or if any
 of his securities shall give him notice in writing that they desire to be released from
 their surety-ship, in either of these cases, if he refuses or neglects to give up his
 testimonials to the court from which they were obtained, any one of his securities
 without instituting a suit may proceed against him as if they were special bail in an
 action of debt until he is thereunto compelled, or gives them sufficient caution for
 their indemnification.

SEC. III. IT shall and may be lawful for the people called quakers and meno-
 nists, or any other Christian society, that have adopted similar regulations in their
 church to solemnize their own marriages, or to be joined together as husband and wife,
 by the mutual consent of the parties openly published and declared before their con-
 gregations when convened for religious worship, in the manner and agreeable to
 the regulations that have heretofore been practised in the respective societies.

SEC. IV. AND whereas some magistrates and others, not authorized by law,
 have been induced by the want of ministers to solemnize marriages:

SEC. V. *BE it enacted*, That all such marriages openly solemnized and made
 at any time before the first day of July, one thousand seven hundred and eighty-
 five, and which shall have been made consummated by the parties co-habiting to-
 gether as husband and wife, shall be taken, and they are hereby declared good and
 valid in law; and all and every person or persons solemnizing such marriages, are,
 and shall be exonerated from all pains and penalties, as if they had been authorized
 ministers. *Provided always*, And it is the true intent and meaning of this
 act, that nothing herein contained, shall extend or be construed to extend to con-
 firm any marriage heretofore celebrated, or which may hereafter be celebrated,
 between parties within the degrees of consanguinity or affinity forbidden by law,
 or where either of the parties were bound by a prior marriage, to a husband, or
 wife, then alive.

SEC. VI. INSTEAD of the fees heretofore prescribed by law, any autho-
 rized minister may demand and receive in current money, for the celebration of
 every marriage, the sum of five shillings; and every clerk of a court for issuing a
 marriage license, may demand and receive the sum of fifteen pence.

SEC. VII. IF any minister shall refuse to celebrate the rites of matrimony for the fees herein before allowed him, or shall exact other or greater fees; or if he or any parish reader or clerk shall refuse to publish the banns, or to certify the same, when required for the fee aforesaid, or exact any other or greater fee, every person so offending shall forfeit and pay two thousand pounds of tobacco to the party grieved for every such offence, recoverable in any court within this commonwealth by action of debt or information.

OA. 1784.
ch. 76. s. 7.

SEC. VIII. AND that a register of all marriages may be preserved: *Be it enacted*, That a certificate of every marriage hereafter solemnized, signed by the minister celebrating the same, or in the case of quakers, menonists, and other societies that solemnize their marriages by the consent of the parties, taken in open congregation as aforesaid, by the clerk of the meeting, shall be by such minister or clerk (as the case may be) transmitted to the clerk of the county wherein the marriage is solemnized within twelve months thereafter, to be entered on record by the clerk, in a book by him to be kept for that purpose, which shall be evidence of all such marriages. The clerk shall be entitled to demand and receive of the party so married the sum of fifteen pence for recording such certificate, and giving the bearer a receipt therefor.

SEC. IX. EVERY minister or clerk of a congregation (as the case may be) failing to transmit such certificate to the clerk of the court in due time, shall forfeit and pay the sum of twenty pounds current money; and if the clerk of any county shall fail to record such certificate, he shall forfeit and pay the like sum of twenty pounds, to be recovered with costs of suit by the informer, in any court of record.

1748. ch. 26.
s. 2.

SEC. X. EVERY license for marriage shall be issued by the clerk of the court of that county wherein the *feme* usually resides, in manner following; that is to say, the clerk shall take bond with good security for the sum of fifty pounds current money, payable to the governor of the commonwealth for the time being, and his successors, for the use of the commonwealth, with condition that there is no lawful cause to obstruct the marriage for which the license shall be desired, and every clerk failing herein shall forfeit and pay fifty pounds current money; and if either of the parties intending to marry shall be under the age of twenty-one years, and not theretofore married, the consent of the father or guardian of every such infant shall be personally given before the said clerk, or certified under the hand and seal of such father or guardian, attested by two witnesses, and thereupon the clerk shall issue a license, and certify that bond is given; and if the parties or either of them be under the age aforesaid, he shall also certify the consent of the father or guardian, and the manner thereof to the first justice sworn in the commission of the peace, or in his absence to the next justice sworn in that county, who is hereby authorized and required to sign and direct the same; and every license so obtained and signed, and no other whatsoever, is hereby declared to be a lawful license. And if any county court clerk shall in any other manner issue or certify any marriage license, or if any person whatsoever shall presume to sign or direct such license in other manner or without such certificate, as is by this act required, every person so offending shall be imprisoned one whole year without bail or mainprize, and shall forfeit and pay five hundred pounds current money, recoverable in any court of record within this commonwealth.

1788. ch. 32.

SEC. XI. IF any person whatsoever since the eighth day of December, one thousand seven hundred and eighty-eight, hath, or at any time hereafter shall marry within the following degrees, that is to say: If the son hath married, or shall marry his mother or step-mother, the brother his sister, the father his daughter, or his son's daughter, or his daughter's daughter, or if the son hath married, or shall marry the daughter of his father, begotten and born of his step-mother, or the son hath married, or shall marry his aunt, being his father's or his mother's sister, or hath married, or shall marry his uncle's wife, or the father hath married, or shall marry his son's wife, or the brother hath married, or shall marry his brother's wife, or any man hath married, or shall marry his wife's daughter, or his wife's son's daughter, or his wife's daughter's daughter, or his wife's sister, every person or persons so unlawfully married, shall be separated by the definitive sentence or judgment of the High Court of Chancery; and the Attorney General upon any information made to him of any such marriage, shall and may exhibit a bill to the judge of the said court against any persons so unlawfully married, who

shall be compelled upon oath to answer the same; and upon such bill and answer, and the depositions of witnesses where the same shall be necessary, the said court shall and may proceed to give judgment, and to declare the nullity of such marriage, and moreover may punish the parties by fine: and if the court see fit, may cause the parties to give bond with sufficient surety, that they will not cohabit hereafter, in such penalty as the said court shall judge reasonable. *Provided always*, That no punishment by fine shall be imposed on any person until the same shall have been assailed by a jury duly impanelled at the bar of the said court. *And provided also*, That nothing herein contained, shall be construed to render illegitimate the issue of any marriage so annulled,

SEC. XII. IF any person or persons within this commonwealth being married, 1788. ch. 34^b or who shall hereafter marry, do at any time after the marry any person or persons, the former husband or wife being alive, every such offence shall be felony, and the person or persons so offending, shall suffer death as in cases of felony: And the party and parties so offending, shall receive such and like proceeding, trial, and execution, within this commonwealth, as if the offence had been committed in the county where such person shall be taken or apprehended. *Provided* That nothing herein contained, shall extend to any person or persons whose husband or wife shall be continually remaining beyond the seas by the space of seven years together, or whose husband or wife shall absent him or herself, the one from the other, by the space of seven years together, in any part within the United States of America or elsewhere, the one of them not knowing the other to be living within that time. *Provided also*, That nothing herein contained, shall extend to any person or persons that are, or shall be at the time of such marriage, divorced by lawful authority; or to any person or persons where the former marriage hath been, or hereafter shall be, by lawful authority declared to be void, and of no effect; nor to any person or persons, for or by reason of any marriage had or made, or hereafter to be had or made, within age of consent: *And provided also*, That no attainder for the offence made felony by this act, shall make, or work any corruption of blood, or forfeiture of estate whatsoever.

SEC. XIII. IF any *feme sole* of the age of twelve, and under sixteen years, shall marry any person whatsoever contrary to the will or consent of her father or guardian, and without legal publication of the banns, then the next of kin to such *feme* to whom the inheritance should descend, or come, shall have right to enter upon, and take possession of all lands, tenements, hereditaments, and other real estate whatsoever, which such *feme*, at the time of her marriage, had in possession, remainder, or reversion; and shall have, hold, occupy, and enjoy the same, to him or her, and the representatives of his or her stock, with all the immunities and privileges thereto belonging, during the time of such coverture; but after determination thereof, all such estate, and the possession, reversions, and remainders, rights, immunities, and privileges, shall immediately re-vest, be, and remain in the said *feme*, and her heirs, other than her husband; and she, and they, and every of them, may re-enter, and take possession thereof, as if this act had never been made.

SEC. XIV. IF any minister, clerk, or reader, shall wittingly publish the banns of marriage between any servants by act of Assembly, indenture, or custom, or between any free person and such servant, or if any minister shall knowingly marry any such without certificate from the master or owner of every such servant, that it is with his or her consent, every minister, clerk, or reader, so offending, shall forfeit and pay ten thousand pounds of tobacco for every such offence; recoverable in any court of record of this commonwealth. And every such servant so married without consent of his or her master or owner, shall serve him or her, and his or her assigns one whole year, after all other time of service is expired, or pay him or her five pounds current money; and every free person so marrying such servant, shall pay the master or owner five pounds current money, for his or her own use; recoverable in any county or corporation court, with costs, or shall well and faithfully serve such master or owner one whole year in actual service.

SEC. XV. AND for preventing white men and women intermarrying with negroes or mulattoes: *Be it enacted*, That whatsoever white man or woman, being free, shall intermarry with a negro or mulatto man or woman, bond or free, 1753. ch. 2. s. 14.

shall by judgment of the county court, be committed to prison, and there remain six months, without bail or mainprize; and shall forfeit and pay ten pounds, to the use of the parish.

1753. ch. 2.
s. 14.

SEC. XVI. NO minister or person whatsoever, within this commonwealth, shall hereafter presume to marry a white man with a negro or mulatto woman, or to marry a white woman with a negro or mulatto man, upon pain of forfeiting and paying for every such marriage the quantity of ten thousand pounds of tobacco, one half to the use of the commonwealth, and the other half to the informer; to be recovered with costs, by action of debt, bill, plaint, or information, in any court of record within this commonwealth, wherein no *essoin*, protection, or wager of law shall be allowed.

1789. ch. 8.
s. 1.

SEC. XVII. AND whereas women, as well maidens as widows and wives, having substances, some in goods moveable, and some in lands and tenements, and some being heirs apparent unto their ancestors, for the lucre of such substances have been often-times taken by misdoers, contrary to their will, and afterwards married to such misdoers, or to others by their consent, or defiled: *Be it further enacted*, That whatsoever person or persons, shall take any woman so against her will unlawfully, that is to say, maid, widow, or wife, such taking, and the procuring and abetting to the same, and also receiving wittingly the same woman so taken against her will, shall be felony; and that such misdoers, takers, and procurers to the same, and receivers, knowing the said offence in form aforesaid, shall be reputed and judged as principal felons. *Provided always*, That this act shall not extend to any person taking any woman, only claiming her as his ward or bond-woman.

1b. ib. s. 2.

SEC. XVIII. IF any person above the age of fourteen years, shall unlawfully take or convey away, or shall cause to be unlawfully taken or conveyed away, any maiden or woman child unmarried, being within the age of sixteen years, out of, or from the possession, and against the will of the father or mother of such maiden, or woman child, or out of, or from the possession and against the will of such person or persons, as then shall happen to have, by any lawful ways or means, the order, keeping, education or governance of any such maiden, or woman child, and being thereof duly convicted, shall suffer imprisonment without bail or mainprize, for any term not exceeding two years, as shall be adjudged against him.

1b. ib. s. 3.

SEC. XIX. IF any person or persons shall so take away, or cause to be taken away, as is aforesaid, and deflower any such maid or woman child as is aforesaid, or shall against the will or knowledge of the father of any such maid or woman child, if the father be in life, or against the will or knowledge of the mother of any such maid or woman child, having the custody or governance of such child, if the father be dead, by secret letters, messages or otherwise, contract matrimony with any such maiden or woman child, every person so offending, and being thereof lawfully convicted, shall suffer imprisonment of his body, by the space of five years, without bail or mainprize.

SEC. XX. ALL the fines which shall or may be imposed by virtue of so much of this act as relates to incestuous marriages, shall be to the use of the poor of the county, wherein the offence or offences shall be committed: and one moiety of all the forfeitures arising under this act, and not otherwise appropriated, shall be to the use of the commonwealth, and the other moiety to the party or parties who shall sue for the same.

ALL and every other act and acts, and clause or clauses of acts for so much thereof, as relates to any thing within the purview of this act, (except as herein after provided) are hereby repealed and made void: *Provided always*, That nothing in this act contained shall be construed to repeal an act, intituled "An act concerning incestuous marriages," or one other act intituled "An act for the punishment of the crime of bigamy," or one other act intituled "An act against forcible and stolen marriages," for so much of either of them as relates to any offence within the purview thereof, committed or done before the commencement of this act; but the said recited acts as to all such offences shall be and remain in full force, in the same manner as if this act had never been made.

A BILL to reduce into one, the several Acts concerning Mills, Mill-Dams, and other Obstructions of Water Courses.

SECTION I. **B**E it enacted by the General Assembly, That when any person owning 1785. ch. 82.
lands on one side of any water course, the bed whereof belongeth s. 1.
to himself, or to the commonwealth, and desiring to build a water grist-mill on such
lands, and to erect a dam across the same, for working the said mill, shall not himself
have the fee-simple property in the lands on the opposite side thereof, against which
he would abut his dam, he shall make application for a writ of *ad quod dam-*
num, to the court of the county wherein the lands proposed for the abutment are,
having given ten days previous notice to the proprietor thereof, if he be to be found
in the county, and if not, then to his agent therein, if any he hath, which court
shall thereupon order their clerk to issue such writ, to be directed to the sheriff,
commanding him to summon and empanel twelve fit persons to meet upon the
lands so proposed for the abutment, on a certain day to be named by the court, and
inserted in the said writ, of which notice shall be given by the sheriff to the pro-
prietor or his agent as before directed, if neither of them were present in court,
at the time of the order made.

SEC. II. THE freeholders taken shall be charged by the said sheriff impartially,
and to the best of their skill and judgment, to view the said lands so proposed for an
abutment, and to locate and circumscribe, by certain metes and bounds, one acre
thereof, having due regard therein to the interests of both parties, and to appraise
the same according to its true value, to examine the lands above and below, of the
property of others, which may probably be overflowed, and say to what damage it
will be of to the several proprietors, and whether the mansion-house of any such
proprietor, or the offices, curtilage, or garden thereunto immediately belonging,
or orchards, will be overflowed; to enquire whether, and in what degree fish of
passage and ordinary navigation will be obstructed; whether by any, and by what
means such obstruction may be prevented, and whether in their opinion, the health
of the neighbours will be annoyed by the stagnation of the waters.

SEC. III. THE inquest so made and sealed by the said jurors, together with
the writ shall be returned by the said sheriff to the succeeding court, who shall
thereupon order summonses to be issued to the several persons proprietors, or tenants
of the lands so located or found liable to damage, if they be to be found within
the county, and if not then to their agents therein, if any they have, to shew cause
why the party applying should not have leave to build the said mill and dam.

SEC. IV. IN like manner if the person proposing to build such mill and dam,
shall have the fee-simple property in the lands on both sides the stream, yet appli-
cation shall be made to the court of the county wherein the mill-house will stand
for a like writ; which writ shall be directed, executed, and returned, as prescribed
in the former case.

SEC. V. IF on such inquest, or on other evidence, it shall appear to the court
that the mansion house of any proprietor, or the offices, curtilage, or garden
thereto immediately belonging, or orchards will be overflowed, or the health of
the neighbours be annoyed, they shall not give leave to build the said mill and dam;
but if none of these injuries are likely to ensue, they shall then proceed to consider
whether all circumstances weighed, it be reasonable that such leave should be
given, and shall give, or not give it accordingly; and if given, they shall lay the
party applying under such conditions for preventing the obstruction, if any there
will be, of fish of passage, and ordinary navigation, as to them shall seem right.

SEC. VI. IF the party applying obtain leave to build the said mill and dam,
he shall, upon paying respectively to the several parties entitled, the value of the
acre located, and the damages which the jurors find will be done by overflowing
the lands above or below, become seized in fee-simple of the said acre of land.
But if he shall not within one year thereafter, begin to build the said mill, and
finish the same within three years, and afterwards continue it in good repair for
public use, or in case the said mill or dam be destroyed, if he shall not begin to
re-build it within one year after such destruction, and finish it within three years,

the said acre of land shall revert to the former proprietor, and his heirs; unless at the time of such destruction of the said mill or dam, the owner thereof be an infant, *feme covert*, imprisoned, or of unsound mind, in which case he shall be allowed the same terms for beginning and completing the said mill or dam after such disability removed.

SEC. VII. THE inquest of the said jurors, nevertheless, or opinion of the court, shall not bar any prosecution or action which any person would have had in law had this act never been made, other than for such injuries as were actually foreseen, and estimated by the said jury.

1785. ch. 8.
s. 4.
1748 ch. 20.
s. 9. SEC. VIII. ALL millers shall well and sufficiently grind the grain brought to their mills, and in due turn as the same shall be brought, and may take for the toll one eighth part, and no more, of all grain, of which the remaining part shall be ground into meal; and one sixteenth part, and no more, of that, the remainder of which shall be ground into hominy or malt. And every miller or occupier of a mill, who shall not well and sufficiently grind as aforesaid, or not in due time as the same shall be brought, or take or exact more toll, shall, for every such offence forfeit and pay fifteen shillings to the party injured; recoverable with costs, before a justice of peace of the county where such offence shall be committed. And where the miller shall be an indented servant, or slave, he shall, upon the first conviction for such offence, receive thirty lashes, and upon a second conviction, fifty lashes, on his bare back, well laid on, in lieu of the forfeiture aforesaid; but upon a third conviction, his master or owner shall be liable to pay fifteen shillings; and so for every such offence by such servant or slave afterwards committed: *Provided*, That every owner or occupier of a mill, may grind his or her own grain at any time.

Ib. ib. s. 10. SEC. IX. EVERY owner or occupier of a mill, shall keep therein sealed measures of half bushel and peck, and a toll dish sealed, and shall measure all grain by strike measure, under the penalty of paying fifteen shillings for every such failure; recoverable with costs, before a justice of the peace for the county wherein such mill shall be, to the use of the informer. And if the miller be a slave or servant, his master or owner shall be liable to the penalty; or if the owner of such mill shall not live within the same county, nor have any known attorney therein, the appearance of such servant or slave before the justice to whom such complaint shall be made shall be sufficient for him to proceed against the master or owner, but if he, or she, his, or her known attorney lives in the county, his, or her appearance shall be required.

1785 ch. 82.
s. 5. SEC. X. NO owner or tenant of any mill, not having fifty acres of land adjoining thereto, shall keep any swine uninclosed at such mill, on pain that the same shall be liable to be taken and converted to his own use by the proprietor or tenant of any adjacent lands; or by any other person authorized by them.

Ib. ch. 75.
s. 11. SEC. XI. THE owner or occupier of every dam over which a public road passes, shall constantly keep such dam in repair, at least twelve feet wide at the top through the whole length thereof, and shall keep and maintain a bridge of the like breadth with strong rails on each side thereof over the pier head, flood gates, or any waste, cut through or round the dam, under the penalty of ten shillings for every twenty-four hour's failure; but where a mill dam shall be carried away, or destroyed by tempest, or accident, the owner or occupier thereof shall not be liable to the said penalties from thenceforth until one month after such mill shall have been so re-paired as to have ground one bushel of grain.

Ib. ch. 82.
s. 6. SEC. XII. WHERE the owner of any mill now standing, or licensed to be built, hath by any act of assembly been compelled to make locks, stops, or opening for navigation or the passage for fish, the same shall be continued under the conditions imposed by such act, and shall be deemed sufficient in law, so long as the dam now standing or building shall remain: But it shall not be lawful to re-build such dam in future, but on enquiry by jury into the obstructions of fish and navigation, and the means of preventing the same, and the final order of the court, to be applied for, and conducted in the manner before directed in other cases.

SEC. XIII. IT shall not be lawful for any person to erect or fix on any water course, any dam, hedge, weir, seine, drag, or other stoppage, whereby navigation or the passage of fish may be obstructed, save only for the purpose of working some machine or engine, useful to the public, in which cases the same proceedings shall be had, as are before directed in the case of a water grist mill, or for the purpose of a water grist mill, before provided for. And where any such are now standing, or shall hereafter be erected or fixed, the owner or tenant of the lands adjacent thereto (whether the same were erected or fixed by himself or another) shall cause it to be abated. And whoso offendeth herein, shall be deemed guilty of a nuisance. 1785. ch. 81. s. 6.

XIV. AND whereas many of the rivers and creeks of this commonwealth are stopped and choaked by stones, trees, stumps, and rubbish therein, and by hedges, weirs, or stone stops, in or across the same, whereby the passage of boats and other vessels, and of fish, is obstructed to the great damage of the inhabitants of this commonwealth, and the hindrance of trade and commerce : 1748. ch. 23. s. 1.

SEC. XV. *BE it therefore enacted*, That where any river or creek shall be in one county only, the court of such county shall be, and is hereby empowered and required, to contract and agree with any person or persons they shall think fit to clear the same, as far as it shall be passable for loaded boats, if such obstructions were removed, and to levy so much tobacco in their county levy as shall be sufficient to discharge such agreement ; and where any river or creek in this commonwealth shall divide two or more counties, the courts of every such county shall join in such agreement, and levy the charge thereof in proportion to the number of tithables in each county: *Provided always*, That nothing herein contained shall be construed to oblige any county court or courts to contract for removing rocks, or such obstructions, in any river or creek, as cannot be removed without the force of gun-powder : *And provided also*, that the courts of the counties adjoining to the rivers ; Meherrin, Nottoway, Roanoke, and Rappahannock, above the falls thereof, shall not be obliged by this act to contract for the clearing the said rivers or any of them. Ib. ib. s. 2.

SEC. XVI. WHOSOEVER shall fell any tree or trees, or cause the same to be felled into any river or creek, or any run whereon there is or shall be erected any public bridge or bridges within this commonwealth, and shall not cut and carry away the same within the space of forty-eight hours after such felling, shall forfeit and pay fifteen shillings for every tree so felled and not cut and carried away ; to be recovered before a justice of the peace of the county where such offence shall be committed, and shall be to the use of the informer. 1748. ch. 23. s. 3.

ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act; shall be, and the same are hereby repealed.

A BILL to reduce into one, the several Acts for regulating the Inoculation of the Small-Pox, within this Commonwealth.

SECTION I. *BE it enacted by the General Assembly*, That if any person or persons whatsoever, shall wilfully, or designedly presume to import or bring into this commonwealth, from any country or place whatever, the small-pox, or any variolous or infectious matter of the said distemper, with a purpose to inoculate any person or persons whatever, or by any means to propagate the said distemper within this commonwealth ; he or she so offending, shall forfeit and pay the sum of one thousand pounds for every offence so committed ; one moiety whereof shall be to the informer, and the other moiety to the overseers of the poor of the county, where the offence shall be committed, for the use of the poor of the said county ; to be recovered with costs, by action of debt, bill, plaint, or information in any court of record within this commonwealth. 1769. ch. 26.

1769. ch. 26.
s. 2.

SEC. II. BUT forasmuch as the inoculation for the small-pox may, under peculiar circumstances, be not only a prudent, but necessary means of securing those who are unavoidably exposed to the danger of taking the distemper in the natural way, and for this reason it is judged proper to tolerate it, under reasonable restrictions and regulations :

1777. ch. 5.
s. 2.

SEC. III. *BE it therefore enacted*, That if any person shall think him or herself, his or her family exposed to the immediate danger of catching the said distemper, such person may give notice thereof to the sheriff of any county, or to the mayor or chief magistrate of any city or corporation; and the said sheriff, mayor, or chief magistrate shall immediately, and without loss of time, summon all the acting magistrates of the said county, city, or borough, to meet at the most convenient time and place, in the said county, city, or borough, and the said magistrates, or such of them as shall be present being assembled, shall consider whether, upon the whole circumstances of the case, inoculation may be prudent or necessary, or dangerous to the health and safety of the neighbourhood; and thereupon either grant a license for such inoculation, under such restrictions and regulations as they shall judge necessary and proper, or prohibit the same, as to them, or a majority of them, shall seem expedient; or any person having first obtained in writing (to be attested by two witnesses) the consent of a majority of the housekeepers residing within two miles, and not separated by a river, creek, or marsh, a quarter of a mile wide, and conforming to the following rules and regulations, may inoculate, or be inoculated for the small-pox, either in his or her own house, or at any other place. No patient in the small-pox shall remove from the house where he or she shall have the distemper, or shall go abroad into the company of any person who hath not before had the small-pox, or been inoculated, or go into any public road where travellers usually pass, without retiring out of the same, or giving notice upon the approach of any passenger, until such patient hath recovered from the distemper, and hath been so well cleansed in his or her person and cloaths, as to be perfectly free from infection, under the penalty of forty shillings for every offence; to be recovered, if committed by a married woman, from her husband, if an infant, from the parent or guardian, and if a servant, or slave, from the master or mistress.

SEC. IV. EVERY physician, doctor, or other person undertaking inoculation at any house, shall cause a written advertisement to be put up at the nearest public road, or other most notorious adjacent place, giving information that the small-pox is at such house, and shall continue to keep the same set up so long as the distemper or any danger of infection remains there, under the penalty of forty shillings for every day that the same shall be omitted or neglected; to be paid by the physician or doctor, if the offence shall be committed when he is present, or by the master, mistress, manager, or principal person of the family respectively, if the offence is committed in the absence of the physician or doctor. Every physician, doctor, or other person undertaking inoculation at any public place, or hospital for the reception of patients, shall, before he discharges the patients, or suffers them to be removed from thence, take due care that their persons and cloaths are sufficiently cleansed; and shall give such patients respectively, a certificate under his hand, that in his opinion they are free from all danger of spreading the infection, under the penalty of three pounds for every offence; and every person wilfully giving a false certificate, shall be subject to the penalty of ten pounds.

SEC. V. IF any person who hath not had the small-pox, other than those who have been, or intend to be inoculated, shall go into any house where the small-pox then is, or intermix with the patients and return from thence, any justice of the peace for the county or corporation, on due proof thereof, may by warrant cause such person to be conveyed to the next hospital where the small-pox is; there to remain until he or she shall have gone through the distemper, or until the physician or manager of the hospital shall certify that in his opinion such person cannot take the same; and if such person be not able to pay the necessary expenses, the same shall be paid by the county.

1769. ch. 26.
s. 5.

SEC. VI. AND whereas checking the progress of the said distemper, where it may accidentally break out, or the regulations which may be established for carrying on inoculation, may be attended with some expense, it shall and may be lawful for the justices of every county, at the time of laying their levy, and for the mayor, recorder, aldermen, and common council of any city or borough, at such

time as they shall judge most convenient, to levy on the tithable persons in their said county, city, or borough, so much tobacco or money as will be sufficient to defray the expenses necessarily incurred for the purposes aforesaid, in any such county, city, or borough.

SEC. VII. IF any sheriff, mayor, or chief magistrate, shall, upon application to him made, in manner aforesaid, refuse, or unreasonably delay to summon the magistrates of any county, city, or borough, for the purpose aforesaid, or if any magistrate so summoned shall refuse or neglect to attend according to such summons, every such sheriff, mayor, or chief magistrate, shall forfeit the sum of one hundred pounds, upon his refusing or neglecting to give such notice, without reasonable excuse; and every other magistrate so refusing or neglecting without reasonable excuse, shall also forfeit and pay the sum of five pounds to the person aggrieved.

SEC. VIII. IF any person or persons shall inoculate or procure inoculation for the small-pox, to be performed within this commonwealth, without obtaining a license or consent to inoculate in the manner herein before directed, or shall not conform to the rules and regulations prescribed by such justices, he, she, or they shall forfeit and pay respectively, for every such offence the sum of one hundred pounds; one moiety whereof shall be to the informer, and the other moiety to the overseers of the poor of the county wherein such offence shall be committed, for the use of the poor of the said county; to be recovered with costs, by action of debt, bill, plaint, or information, in any court of record within this commonwealth: and moreover it shall and may be lawful for any justice of the peace, upon information given to him upon oath, to issue his warrant against any person so offending, and upon sufficient proof before him made, to cause such offender to give security in such reasonable penalty as such justice shall think fit, for his or her good behaviour, and upon failure to give such security, to commit him or her to the gaol of his county, there to be confined until such security be given.

SEC. IX. EVERY person wilfully endeavouring to spread or propagate the small-pox, without inoculation, or by inoculation in any other manner than is allowed by this act in special cases, shall be subject to the penalty of five hundred pounds, or suffer six months imprisonment, without bail or mainprize. Oa. 1777.
ch. 5. s. 5.

SEC. X. ALL the penalties inflicted by this act, may be recovered with costs, by action of debt or information, in any court of record, where the sum exceeds five pounds, and where it is under or amounts to that sum only, by petition in the court of the county where the offence shall be committed; and where they are not hereby appropriated otherwise, shall be one half to the informer, and the other half to the commonwealth, or the whole to the commonwealth, where prosecution shall be first instituted on the public behalf alone.

ALL acts, and so much of any act of General Assembly, as contains any thing contrary to this act, is hereby repealed.

A BILL for regulating Ordinaries, and restraint of Tippling-Houses.

SECTION I. **B**E it enacted by the General Assembly, That every person intending to set up or keep an ordinary, or house of public entertainment, shall first petition the court of that county wherein such ordinary is intended to be, and obtain a license for keeping the same, and the justices of the court to whom such petition shall be exhibited, shall thereupon consider the convenience of the place proposed, and the ability of the petitioner to provide and keep good and sufficient houses, lodging and entertainment for travellers, their servants and horses; but the court shall not, under pretence of keeping any poor person from being chargeable to the parish, license any such person to sell liquors, to the prejudice of 22. Geo. 2. ch.
24. 8. 1.

the neighbouring inhabitants : And if such petition shall appear reasonable, such court is hereby authorized, and may, if they think fit, grant the petitioner a license to keep an ordinary, for the term of one year next ensuing the date of such license, and from thence, till the next court held for the said county, and no longer ; which license shall be signed by the first justice sworn in the commission of the peace for such county, and may, upon petition be renewed from year to year, if the court shall think fit.

21. G. 2. ch.
24. s. 2.

SEC. II. *PROVIDED* always, That before issuing such license, the petitioner shall pay the sum of forty shillings to the clerk of the court for the use of the commonwealth, and shall enter into bond with sufficient security to the effect following :

" KNOW all men, by these presents, that we A. B. and C. D. are held and firmly bound to his Excellency _____, Governor of the commonwealth of Virginia, in the sum of fifty pounds ; to which payment, well and truly to be made to the said _____, or his successors, we bind ourselves and every of us, our and every of our heirs, executors, and administrators, jointly and severally, by these presents. Witness our hands and seals this _____ day of _____, in the year 17 _____ .

THE condition of the above obligation is, that whereas the above bound A. B. hath obtained a license to keep an ordinary, at _____, in the county of _____, if therefore the said A. B. doth constantly find and provide in his said ordinary, good, wholesome, and cleanly lodging and diet for travellers, and stableage, fodder, and provender, or pasturage ; and provender, as the season shall require, for their horses, for and during the term of one year from the day of the date of these presents, and from thence till the next court held for the said county of _____, and shall not suffer or permit any unlawful gaming in his house, nor on the Sabbath day suffer any person to tipple and drink more than is necessary, then this obligation to be void, otherwise to remain in full force."

1b. ib. s. 3.
Oct. 1779. ch.
13. s. 4.
1785. ch. 74.

SEC. III. THE justices of every county court within this commonwealth shall at their March court, or at any other court set the rates and prices to be paid at all ordinaries within their respective counties, for liquors, diet, lodging, provender, stableage, fodder, and pasturage, and may increase or lessen the rates as often as they shall see cause, but shall not fail to fix the rates at least twice in a year, under penalty of five pounds on every member of such court so failing ; and every ordinary keeper shall within one month after the rates so set, or from time to time altered, set up a copy of the rates aforesaid, attested by the clerk of the court, in some public entertaining room in his tavern, to be placed not more than six feet above the floor, and so long as he neglects this after the month, he shall have no right to demand any price for a rated article, and moreover be subject to a penalty of forty shillings. And if any ordinary keeper shall demand and take greater price for any drink, diet, lodging, provender, stableage, fodder, or pasturage, than by such rates shall be allowed, he or she so offending shall forfeit and pay three pounds ten shillings for every such offence, to the informer, recoverable with costs before a justice of the peace of the county wherein such ordinary shall be. And the penalty on each member of the court failing to fix the rates, and on the tavern keeper for not setting up a table of the same, shall be recoverable by action of debt or information by any person who will sue for the same in any court of record within this commonwealth.

22. Geo. 2. ch.
24. s. 4.

SEC. IV. IF any person without such license, shall open a tavern, or sell by retail, wine, beer, cyder, rum, or brandy, or other spirituous liquors, or a mixture thereof, to be drank in, or at the place where it shall be sold, or in any booth, arbor, or stall, such offence shall be deemed a breach of good behaviour, and he or she so offending, shall moreover forfeit and pay the sum of ten pounds current money, to be applied towards lessening the county levy ; and on failure of present payment, or security for payment within six months, shall receive twenty-one lashes at the public whipping post.

Oct. 1779. ch.
13. s. 2.

SEC. V. EVERY person having been convicted of keeping a tippling-house, or retailing liquors as aforesaid, who shall afterwards be guilty of the same offence, and be thereof again convicted, shall by the court before whom such conviction

shall be had, be committed to prison, there to remain for and during the term of six months, without bail or mainprize. The presiding justice present shall give this act in special charge to the grand jury of the county, at every grand jury court; and whenever any prosecution or suit shall be instituted thereupon, the court before whom the same shall be depending, shall proceed to speedy trial thereof, out of course, and without delay.

SEC. VI. AND every justice of the peace is hereby required and strictly enjoined to cause this act to be put into strict execution within his county. And if any justice, either from information, his own knowledge, or other just cause, shall suspect any person of keeping a tippling-house, or retailing liquors as aforesaid, he is hereby empowered and required to summon such person to appear before him, together with such witnesses as he may judge necessary; and upon the person's appearing, or failing to appear, if the justice, upon examining the witnesses upon oath, shall find sufficient cause, he may, and is hereby required to direct the attorney for the commonwealth in such county, to institute a prosecution against such person on the public behalf, which such attorney is hereby required to institute accordingly. And such justice may also cause the person so suspected, to give bond with two sufficient securities, for his or her good behaviour for the term of one year, the principal in the sum of fifty pounds, and the securities in the sum of twenty-five pounds each; and upon failing to give such bond and security within three days after being thereto required, such person may be committed to the gaol of the county, there to remain until he or she shall give bond and security accordingly; and if such person shall afterwards, during the said term, keep a tippling-house, or retail liquors as aforesaid, the same shall be, and is hereby declared a breach of the good behaviour, and of the condition of such bond. Oa. 1779.
c. 13, s. 2.

SEC. VII. *Provided always,* That nothing in this act shall extend or be construed to prohibit any person or persons from retailing such liquors as shall actually have been made from the produce of such person's own estate, or brewed, or distilled by him, her, or them, or those in his, her, or their employ; nor to prohibit any merchant or person keeping store for the sale of merchandize from retailing liquors, so as such liquors be not drank, or intended to be drank at the house or plantation where the same shall be sold: And in case any dispute shall arise as to the making such liquors, the burthen of proof shall be on the defendant. 22. Geo. 2. ch.
24 s. 5.
Oa. 1779.
ch. 13. s. 3.

SEC. VIII. IF guests or others play at any game contrary to law in a tavern or in any out house, or under any booth, arbor, or other place upon the messuage or tenement in possession of any tavern-keeper, and the keeper thereof shall not endeavour to hinder them, and if they persist, to give information of the offence, and to give in the names of the offenders, within one month thereafter, to the court, or to two justices of the peace, his license shall be revoked by the court, and he shall pay to the informer five pounds, unless, being summoned to shew cause to the contrary, he appear and prove such facts, as induce them to believe, not only he did not know of, but moreover, that he had no reason to suspect such playing. 1785. ch. 74.

SEC. IX. IF the keeper of any ordinary or tavern, shall in his house, suffer any person to tipple, or drink more than is necessary on the Lord's day, or on any other day set apart by public authority for religious worship, or shall harbour or entertain any seaman contrary to law, such tavern-keeper shall be deprived of his license in the same manner. 22. G. 2. ch.
24 s. 6.

SEC. X. IF any keeper of a tavern, or ordinary, shall sell drink to any sailor in actual pay on board of any ship on credit, he or she shall not recover any money, tobacco, or other commodity, for liquors so sold upon credit, but every such debt, obligation, or specialty shall be void: And if any warrant, petition, writ, or bill, be prosecuted or exhibited against any person for the same, such warrant, petition, writ, or bill, shall be dismissed, and the defendant shall have double costs. Ib. ib. s. 7.

SEC. XI. IF any ordinary keeper shall sell any liquor whatsoever, upon credit, to any sailor in actual pay on board any ship, or other vessel, or shall harbour, en- Ib. ib. s. 8.

tertain, or sell drink to any such sailor, without license from the master of the vessel, or ship, to which the sailor belongs, such ordinary keeper shall, for every such offence, forfeit and pay ten shillings to the master of the ship or vessel, recoverable with costs before any justice of the peace of the county, wherein such ordinary keeper lives.

1785. ch. 74. SEC. XII. NO keeper of a tavern shall recover more than twenty-five shillings for liquor sold within the space of a year to one person, residing less than twenty miles from such tavern, and drank, or sold to be drank in the place where it is kept; and a written contract, or bond, or other specialty for payment, delivery, or security of money, or other thing, for performance of any work or service, whereof the whole, or any part shall have become due for liquors so sold, shall be void.

22 G. 2 ch. 24. s. 11. SEC. XIII. THE court of hustings for the city of Williamsburg, shall have the sole power of granting or revoking licenses to ordinary keepers within the said city, provided that such licenses be granted in the manner directed by this act.

1b. ib. s. 9. SEC. XIV. ALL the penalties and forfeitures by this act given or laid, and not herein before appropriated, shall be one moiety to the use of the commonwealth, and the other to the informer; to be recovered with costs, in any court of record within this commonwealth.

EVERY Act of Assembly concerning any thing within the purview of this act, shall be, and the same is hereby repealed.



TABLE of the foregoing BILLS.

No.		PAGE
1	A BILL for reducing into one, the several acts prescribing the oath of fidelity, and oaths of public officers,	3 <i>Fidelity</i>
2	For ascertaining the salaries to the officers of civil government,	4 <i>Salaries</i>
3	To punish bribery and extortion,	5 <i>Bribery</i>
4	Against buying and selling of offices,	6 <i>Selling offices</i>
5	Concerning election of members of General Assembly, and declaring when Acts of Assembly shall commence in force,	7 <i>Genl Assembly</i>
6	For arranging the counties in districts for electing Senators, and to ascertain their wages,	13 <i>Senators</i>
7	For reducing into one act, the several acts, and parts of acts, respecting the powers and duties of the Executive,	1b. <i>Executive</i>
8	For reducing into one act, the several acts concerning the Court of Appeals, and <i>Special</i> Court of Appeals,	14 <i>Appeals</i>
9	Reducing into one, the several acts concerning the High Court of Chancery,	18 <i>H. C. Chancery</i>
10	Reducing into one, the several acts, and parts of acts concerning the General Court, and prescribing the manner of proceeding therein in certain cases,	25 <i>Genl Court</i>
11	Reducing into one, the several acts concerning the establishment, jurisdiction, and powers of District Courts,	29 <i>District Courts</i>
12	To reduce into one, the several acts concerning the county and other inferior courts of this commonwealth,	44 <i>County Courts</i>
13	Reducing into one, the several acts concerning the adjournment and places of session of <i>certain</i> courts in <i>certain</i> cases,	57 <i>Adjournment of Courts</i>
14	Reducing into one act, the several acts declaring who shall be conservators of the peace within this commonwealth,	58 <i>Conservators of peace</i>
15	To reduce into one, all acts, and parts of acts respecting county and corporation clerks,	1b. <i>Clerks</i>
16	Concerning counsel, and attorneys at law,	60 <i>Lawyers</i>
17	Reducing into one act, the several acts directing the manner of proceeding in cases of impeachment,	63 <i>Impeachment</i>
18	concerning grand juries, petit juries, and veniremen,	64 <i>Juries &c</i>
19	Directing the method of proceeding against free persons charged with certain crimes; declaring the mode of proceeding on indictments, informations, and prosecutions on penal statutes; and for preventing vexatious and malicious prosecutions, and moderating amercements,	66 <i>Criminals Penalties Amercements</i>
20	Declaring at what time restitution shall be made of goods stolen,	72 <i>Stolen goods</i>
21	For limitation of actions; for preventing frivolous and vexatious suits; concerning jeoffails, and certain proceedings in civil cases,	1b. <i>Limitation of suits, Jeoffails</i>
22	Reducing into one, all acts and parts of acts concerning suits brought for sterling money; and for ascertaining the rate of exchange; and damages upon protested bills of exchange,	79 <i>Sterling money</i>
23	Directing the method of proceeding in courts of equity, against absent debtors, or other absent defendants; and for settling the proceedings on attachments <i>against absconding debtors</i> ,	80 <i>Absent debtors &c</i>
24	Declaring the law concerning the escape of debtors, and other prisoners,	84 <i>Escapes</i>

* The title of the bill as printed is on attachments at the common law—after the bills were printed, the Committee thought this alteration necessary.

	No.		PAGE.
<i>Executions & Insolvents</i>	25	A Bill For reducing into one, the several acts concerning executions, † and for the relief of insolvent debtors.	85
<i>Sheriffs</i>	26	To reduce into one, all acts and parts of acts, relating to the appointment and duties of sheriffs,	98
<i>Coroners</i>	27	Concerning coroners,	103
<i>Escheators</i>	28	Concerning escheators,	106
<i>Revenue</i>	29	To reduce into one, the several acts concerning the public revenue,	107
<i>Sale of lands Public debts</i>	30	To reduce into one, the several acts concerning the recovery of debts due to the public, and the sale of lands for judgments on behalf of the commonwealth against public officers,	115
<i>Auditor & Treasurer</i>	31	To reduce into one, the several acts concerning the Auditor and Treasurer,	119
<i>Land Office</i>	32	For reducing into one, the several acts concerning the land-office; ascertaining the terms and manner of granting waste and unappropriated lands; for settling the title and bounds of lands; directing the mode of processioning; and prescribing the duty of surveyors,	121
<i>Surveyors</i>			
<i>Entries & Detainers</i>	33	Reducing into one act, the several acts concerning forcible entries and detainers,	133
<i>Hunting & Ranging</i>	34	To prevent unlawful Hunting and Ranging,	134
<i>Rents</i>	35	To reduce into one, the several acts for the better securing the payment of rents, and preventing the fraudulent practices of tenants; and to regulate the practice of suing out and prosecuting writs of replevin,	135
<i>Conveyances</i>	36	For regulating conveyances,	138
<i>Foreign Deeds &c</i>	37	Reducing into one, the several acts concerning the manner of authenticating foreign deeds, records, and other instruments in writing,	140
<i>Wills &c</i>	38	Reducing into one act, the several acts concerning wills; the distribution of intestates estates; and the duty of executors and administrators,	141
<i>Descents</i>	39	To reduce into one, the several acts directing the course of descents,	150
<i>Dower</i>	40	To reduce into one act, all acts and parts of acts relating to dower,	152
<i>Guardians &c Masters &c</i>	41	To reduce into one, the several acts concerning guardians, orphans, committees, infants, masters, and apprentices,	154
<i>Gaming</i>	42	Reducing into one, the several acts to prevent unlawful gaming,	156
<i>Champany</i>	43	Against champerty,	159
<i>Hog-stealing</i>	44	Against hog-stealing,	1b.
<i>Maiming</i>	45	To prevent malicious maiming and disfiguring,	161
<i>Bastards</i>	46	Concerning bastards, and to prevent the destroying and murdering bastard children,	1b.
<i>Buggery</i>	47	Declaring the punishment of the vice of buggery,	163
<i>Horse-stealing</i>	48	Declaring the punishment of horse-stealers and their accessories; and reducing into one, the several acts to encourage the apprehenders of horse-stealers,	1b.
<i>Poor & Vagrants</i>	49	Providing for the poor, and declaring who shall be deemed vagrants,	164
<i>Slaves</i>	50	To reduce into one, the several acts concerning slaves,	170
<i>Marriages</i>	51	To regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy,	180
<i>Bigamy</i>			
<i>Mills</i>	52	To reduce into one, the several acts concerning mills, mill-dams, and other obstructions of waters-courses,	185
<i>Small pox</i>	53	To reduce into one, the several acts for regulating the inoculation of the small-pox within this commonwealth,	187
<i>Ordinaries</i>	54	For regulating ordinaries, and restraint of tippling houses,	189

† and for the relief of insolvent debtors—These words are added to the title since the bills were printed, by the direction of the Committee.

DRAUGHTS

OF SUCH

BILLS

AS HAVE BEEN PREPARED BY THE COMMITTEE APPOINTED UNDER
THE ACT, INTITULED, "AN ACT, TO AMEND AN ACT, IN-
" TITULED, AN ACT, CONCERNING A NEW EDITION OF
" THE LAWS OF THIS COMMONWEALTH, REFORMING
" CERTAIN RULES OF LEGAL CONSTRUCTION,
" AND PROVIDING FOR THE DUE PUBLICATI-
" ON OF THE LAWS AND RESOLUTIONS
" OF EACH SESSION," PASSED ON THE
TWENTY-THIRD DAY OF DE-
CEMBER, IN THE YEAR ONE
THOUSAND SEVEN HUNDRED
AND NINETY,

ON THE SUBJECTS OF THOSE LAWS WHICH FROM THEIR MUL-
TIPPLICITY REQUIRE TO BE REDUCED
INTO SINGLE ACTS.

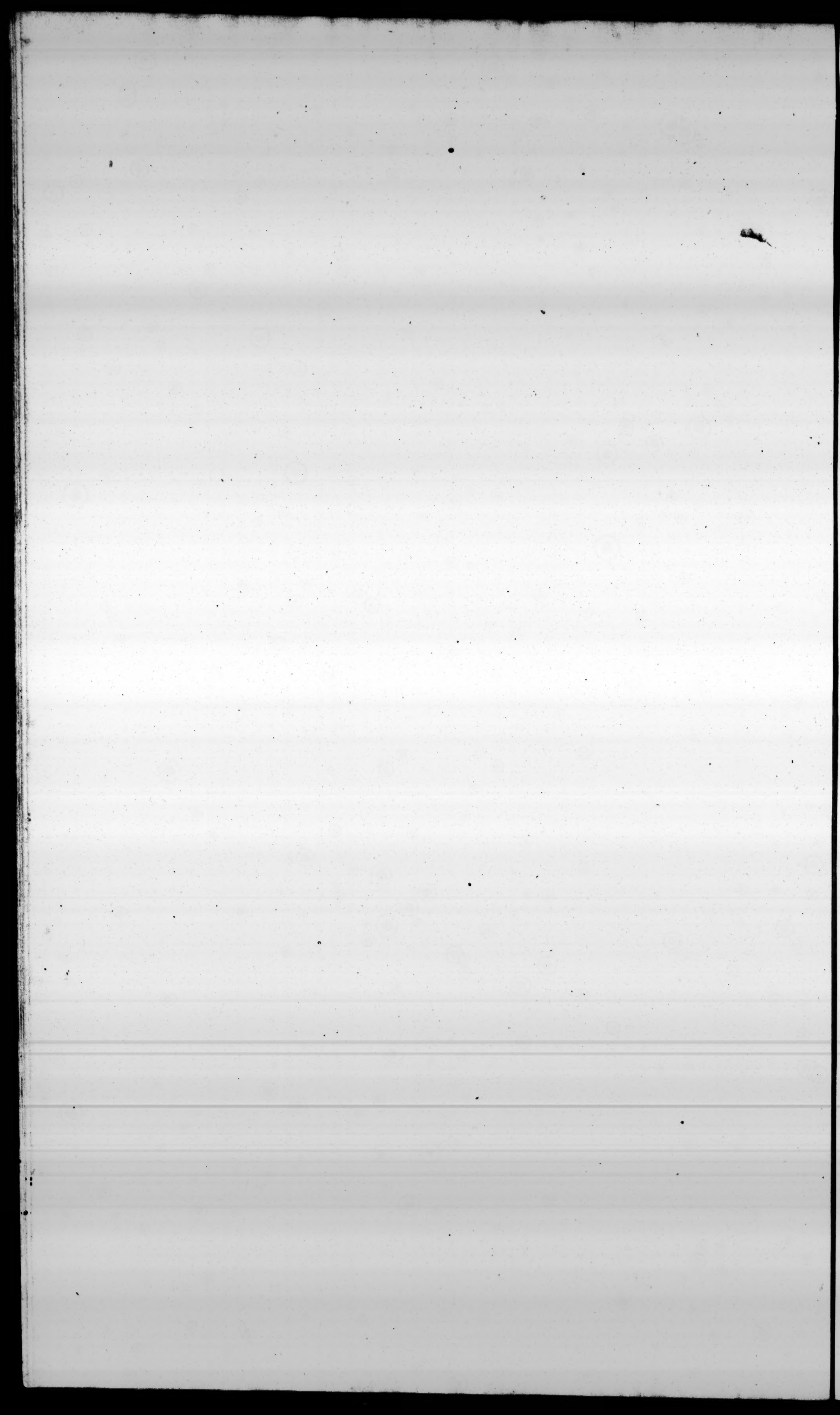
TRANSMITTED TO THE EXECUTIVE ON THE EIGHTEENTH OF
AUGUST, ONE THOUSAND SEVEN HUNDRED AND NINETY-TWO,
IN ORDER TO BE PRINTED.

V O L. II.

R I C H M O N D:

Printed by AUGUSTINE DAVIS,
PRINTER FOR THE PUBLIC.

M,DCC,XCII.



REVISED BILLS, &c.

A BILL reducing into one, the several Acts for unlading Ballast, and burial of Dead Bodies from on board Ships; and prohibiting the putting sick or disabled Seamen and Servants on Shore, without providing for their Maintenance.

SECTION I. **B**E it enacted by the General Assembly, That the court of every 1785. ch. 76.
county or corporation adjacent to any navigable river or creek, s. 1.
shall from time to time as vacancies happen, appoint one or more ballast masters
residing near the places where vessels usually ride in such river or creek, to be over-
seers and directors of the delivery and unloading of ballast from on board any ship
or vessel, within a certain district to be by them ascertained.

SEC. II. EVERY person so appointed, shall make oath in open court, that he May, 1783.
will when required, diligently attend the delivery of ballast, from on board any ch. 21. s. 7.
vessel within his district; and will not knowingly permit the same, or any part
thereof, to be cast into the water where navigable, but will direct, and to the best
of his power, cause all such ballast to be brought and laid on shore at some conve-
nient place or places where it may not obstruct navigation, nor be washed into the
channel; and that he will truly and faithfully execute his office without favour,
partiality, or malice.

SEC. III. IF any person so appointed, and having notice thereof by an attest- 1748. ch. 29.
ed copy of such appointment, issued by the clerk and served by the sheriff, which s. 13.
notice the clerk is hereby directed immediately to issue, and the sheriff to serve,
and thereupon make due return to the next court, shall fail to appear before the said
court, unless hindered by sickness or other legal disability, or being there shall re-
fuse to be sworn, he shall be fined twenty pounds; and the court shall upon every
such failure or refusal, or in case of death, removal, or other legal disability of any
person so appointed, proceed to appoint another in his room.

SEC. IV. EVERY ballast master so appointed, upon receiving notice from 1785. ch. 76.
the master or chief officer on board of any ship or vessel within his district, that s. 2.
ballast is to be discharged from such vessel, shall go on board the same and attend
until the whole ballast is delivered, which he shall see brought on shore, and laid
at some convenient place near the vessel, where it may not obstruct navigation, nor
be washed into the channel, shall thereupon give such master or officer, a certifi-
cate that the ballast has been duly unladen from on board such ship or vessel, and
shall receive from him for the services so performed, five shillings per day.

SEC. V. EVERY ballast master failing to do his duty according to this act, Ib. ib. s. 2.
shall forfeit twenty pounds for each default.

SEC. VI. EVERY master or chief officer of any ship or vessel having ballast
to unlade, shall give notice in writing of the time he purposes to land the same, to Ib. ib. s. 4.
the ballast master of the district; and if he shall presume to land or cast over board
any ballast therefrom, without giving such notice, or contrary to the orders he
shall receive from the ballast master of the district, he shall forfeit fifty pounds for
every such offence or failure.

SEC. VII. WHEN any person shall die on board of any ship or vessel within
this commonwealth, the master thereof shall cause the dead body to be brought on Ib. ib. s. 5.
shore and there buried, at least four feet deep, above high water mark, or be sub-
ject to the like penalty of fifty pounds.

1785. ch. 76. SEC. VIII. IF any suit be brought for the penalties in this act before con-
s. 5. tained, the defendant may be ruled to give special bail, and the clerk shall endorse
on the writ that bail is required.

1748. ch. 12. SEC. IX. IF any master or commander of any ship or vessel, shall discharge
s. 7. or cause to be put on shore, any sick or disabled sailor or sailors, belonging to his
ship or vessel, not entitled to his or their discharge by the contract between them,
or any servant, without taking due care for his or their maintenance and cure, he
1785. ch. 59. shall forfeit and pay twenty pounds current money, to the overseers of the poor
of the county wherein such sailor or sailors, or servant shall be put on shore; to
be recovered with costs, by action of debt or information, in any county court,
and applied towards lessening the poor rates of the county; and he shall also be li-
able to the action of the overseers of the poor of that or any other county wherein
such sailor or sailors, or servant shall become chargeable, for all expenses of main-
tenance and cure; and in any such action or actions, the defendant may be ruled
1772. ch. 10. to give special bail, and the clerk shall endorse on the writ that good bail is requir-
ed: *Provided*, That the said overseers of the poor, or either of them, shall make
affidavit of the cause of action, before a magistrate, which shall be certified to the
clerk of the court who shall issue the writ.

ALL and every act, clause and clauses of acts, within the purview of this act,
shall be, and the same are hereby repealed.

PROVIDED always, That nothing in this act contained, shall be construed
to repeal any act heretofore made, for so much thereof as may relate to any offence
committed or done before the commencement of this act.

*A BILL to prevent the malicious burning Tobacco Houses, and other Houses and
Places; for taking away Clergy from certain Offences; and for punishing Acces-
sories to Felonies and Receivers of Stolen Goods.*

1730. ch. 3. SEC. I. **W**HEREAS divers wicked and evil disposed persons have devised,
s. 1. and secretly, in the night time, and at other times when they think
their deeds are not known, frequently practised, in several parts of this common-
wealth, unlawful and wicked courses in burning tobacco houses, warehouses, store-
houses, and houses and places where wheat, Indian corn, and other grain is kept,
in contempt of the laws, and to the insupportable wrong and damage of many:
For prevention whereof,

1b. ib. s. 2. SEC. II. *BE it enacted by the General Assembly*, That all and every person and
persons that shall at any time, either in the night or the day, after the commence-
ment of this act, maliciously, unlawfully, and willingly burn any tobacco house,
warehouse, or storehouse, or any house or place where wheat, Indian corn, or
other grain shall then be kept, or any other houses whatsoever, or shall comfort,
aid, abet, assist, counsel, hire, or command, any person or persons to commit any
of the said offences, being thereof convicted or attainted, or being indicted thereof
shall stand mute, or will not answer directly to the indictment, or shall perempto-
rily challenge above the number of twenty persons returned to be of the jury, shall
be adjudged a felon, and shall suffer death as in case of felony, and shall not have
the benefit of his, her, or their clergy.

1b. ib. s. 3. SEC. III. *AND* forasmuch as divers lewd and wicked persons are encouraged
to commit robberies in warehouses and storehouses, by the privilege, as the law
now is, of demanding the benefit of their clergy:

SEC. IV. *BE it therefore enacted*, That all and every person and persons, that shall at any time, after the commencement of this act, either in the night or the day, feloniously break any warehouse or storehouse, and shall take therefrom any money, goods, or chattels, wares or merchandizes, of the value of twenty shillings lawful money, or more, although the owner of such goods, or any other person or persons, be or be not in such warehouse or storehouse, or shall aid, assist, counsel, hire, or command any person or persons so to break and rob any such warehouse or storehouse, and shall be thereof convicted or attainted, or being thereof indicted, shall stand mute, or will not answer directly to the indictment, or shall peremptorily challenge above the number of twenty persons returned to be of the jury, shall, by virtue of this act, be absolutely debarred of, and from the benefit of clergy. 1730. ch. 3. s. 4.

SEC. V. AND forasmuch as the counsellors and contrivers of theft and other felonies, and the receivers of goods that have been stolen, are the principal cause of the commission of such felonies; and as the law now is, no accessory can be convicted, or suffer any punishment where the principal is not attainted, or hath the benefit of his clergy: Ib. ib. s. 5.

SEC. VI. *BE it therefore enacted*, That from and after the commencement of this act, if any principal offender shall be convicted of any felony, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to be of the jury, it shall and may be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall be admitted to the benefit of his clergy, pardoned, or otherwise delivered, before attainder; and every such accessory shall suffer the same punishment, if he or she be convicted, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to be of the jury, as he or she should have suffered if the principal had been attainted. Ib. ib. s. 6.

SEC. VII. AND forasmuch as buyers and receivers of stolen goods do oftentimes convey away and conceal the principal felons, so that they cannot be convicted of such principal felony, and thereby such buyers and receivers have escaped all manner of punishment, which hath greatly encouraged the buying and receiving of such stolen goods: For remedy whereof, Ib. ib. s. 7.

SEC. VIII. *BE it further enacted*, That from and after the commencement of this act, it shall and may be lawful to prosecute and punish every such person and persons buying or receiving any stolen goods, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, although the principal felon be not before convicted of the said felony, which shall exempt the offender from being punished as accessory, if the principal shall be afterwards convicted. Ib. ib. s. 8.

ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act (except as herein after provided) shall be, and the same are hereby repealed.

PROVIDED always, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

A BILL declaring who shall be deemed Citizens of this Commonwealth, and pointing out the Mode by which the Right of Citizenship may be acquired or relinquished.

1786. ch. 10.

SECTION I. *BE it enacted by the General Assembly,* That all free persons born within the territory of this Commonwealth, all persons not being natives who have obtained a right to citizenship under former laws, and also all children wheresoever born, whose fathers or mothers are or were citizens at the time of the birth of such children, shall be deemed citizens of this commonwealth, until they relinquish that character in manner hereinafter mentioned; and that all persons other than alien enemies, who shall migrate into this state, and shall before some court of record give satisfactory proof by oath, or being Quakers or Menonists, by affirmation, that they intend to reside therein, and also take the legal oath or affirmation for giving assurance of fidelity to the commonwealth, (which oaths or affirmations the clerk of the court shall enter of record, and give a certificate thereof to the person taking the same, and shall on or before the first day of October annually, transmit to the executive a list of the persons who shall have taken the said oaths or affirmations, reciting their nation and occupation, (if any) to be by them entered in a book to be kept for that purpose, for which he shall receive the fee of one dollar) shall be entitled to all the rights, privileges and advantages of citizens, except that they shall not be capable of election or appointment to any office, legislative, executive, or judiciary, until an actual residence in the state for five years after the time of taking such oaths or affirmations aforesaid; nor until they shall have evinced a permanent attachment to the state, by having intermarried with a citizen of this commonwealth, or a citizen of any other of the United States, or purchased lands of the value of one hundred pounds therein.

SEC. II. *PROVIDED always,* That no person having or holding any place or pension from any foreign state or potentate, shall be eligible to any office, legislative, executive, or judiciary within this commonwealth.

SEC. III. *AND* for the encouragement of useful artizans, mechanics and handicraft-tradesmen to migrate into this commonwealth; *Be it further enacted,* That all and every such person or persons last mentioned, who shall hereafter migrate to this commonwealth, shall be wholly exempt from the payment of any tax on his or their tools or implements of trade, which he or they shall bring into this commonwealth, at the time of his or their migration thereto, and shall moreover be exempted from all taxes whatsoever, except the land-tax, for the space of five years next thereafter, and if he or they shall so long continue the actual exercise of his or their trade or occupation therein.

SEC. IV. *AND* in order to preserve to the citizens of this commonwealth that natural right which all men have of relinquishing the society in which birth or accident may have thrown them, and of seeking subsistence and happiness elsewhere, and to declare explicitly what shall be deemed evidence of an intention in any citizen to exercise that right: *Be it further enacted,* That whensoever any citizen of this commonwealth shall, by deed in writing under his hand and seal, executed in the presence of, and subscribed by three witnesses, and by them, or two of them proved in the General Court, any District Court, or the court of the county where he resides; or by open verbal declaration made in either of the said courts, to be by them entered of record, declare that he relinquishes the character of a citizen, and shall depart out of this commonwealth; such person shall from the time of his departure, be considered as having exercised his right of expatriation, and shall thenceforth be deemed no citizen.

SEC. V. *AND* whereas it is just and expedient to prevent the admission into this state of those persons, who being either citizens or natives of some of the United States, withdrew themselves from their country in the course of the late war, and were actually in arms aiding and abetting the then common enemy, in their endeavours to subvert the rights and liberties of America: *Be it therefore enacted,* That all persons who, having accepted a military commission from the United States or any of them, or who, having taken the oath of fidelity to any of the United States, or who having been natives of, or residents in any of the United States on the nineteenth day of April, in the year one thousand seven hun-

dred and seventy-five; or at any time since, have at any time during the late war voluntarily joined themselves to the fleets or armies of the king of Great-Britain, or have voluntarily borne arms against the United States or any of them, in any garrison, port, or fortification, or other place whatsoever within their territories or on their coasts, or have been owner, or part owner of any privateer or other armed vessel cruising against the said United States or any of them; and all and every person and persons who at any time acted as a member of the board, commonly called the board of refugee commissioners at New-York, or under the authority, or by the direction of the said board, shall be, and they are, hereby prohibited from migrating to, or becoming citizens of this commonwealth; and all such persons shall be equally subject to the pains, penalties and disabilities of this act, although they have been heretofore; or shall be hereafter admitted to take the oaths of fidelity to this commonwealth in any court of record within the same, as if they had not taken the said oaths.

SEC. VI. ALL and every person and persons prohibited by this act from migrating to this commonwealth, who shall be found within the same, shall and may be prosecuted in the General Court of this commonwealth as for a misdemeanor; and if upon trial such person or persons be found guilty of a breach of this act, he or they shall be imprisoned for a term not exceeding six months, in the public gaol of this commonwealth, without bail or mainprize, and may be fined at the discretion of the said court in any sum not exceeding one hundred pounds, and shall moreover stand committed until such fine be paid; and if the person or persons so convicted, shall be found at large in this commonwealth after the expiration of one year from the time of his or their conviction, or of one month from the time of his or their enlargement from gaol, such person or persons shall be committed to the public gaol, and upon proof being made of the identity of such person or persons, he or they shall be thereafter imprisoned in the public gaol for the space of five years without bail or mainprize, and shall moreover forfeit all his goods and chattels, lands and tenements, for the use of the commonwealth. And if any person prohibited by this act from migrating to this commonwealth, shall institute any suit or action whatsoever, in any of the courts of this commonwealth, against any citizen or other person entitled to become a citizen thereof, the defendant or defendants may plead this act in bar of such action or suit; and if upon the trial of the cause it shall appear that the plaintiff is by this act prohibited from migrating to this commonwealth, and that the cause of action arose within the same after the commencement of this act, the jury shall find for the defendant or defendants, and thereupon judgment shall be given against the plaintiff with treble costs of suit, and the clerk of the court in which such cause shall be tried, shall within one month thereafter transmit a copy of the record, together with the names of the witnesses sworn on the part of the defendant or defendants to the attorney-general, who shall at the next succeeding session of the General Court file an information, or prefer an indictment to the grand jury against the person or persons against whom such verdict and judgment shall have been given.

SEC. VII. ALL persons resident in this or any other of the United States on the aforementioned nineteenth day of April, and not included in the above description, who are at present prohibited by law from migrating to this state, shall be and they are hereby permitted to migrate into and enjoy all the rights of citizenship, except that they shall not be capable of voting for members to either House of Assembly, or of holding or accepting any office of trust or profit, civil or military: *Provided* that nothing herein contained, shall be construed so as to contravene the treaty of peace with Great-Britain.

ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed:

*A BILL concerning Coin.**

SECTION I. **B**E it enacted by the General Assembly, That from and after the _____ day of _____, in the year of our Lord one thousand seven hundred and _____, the gold and silver coin herein after mentioned shall be current in this commonwealth, in payment of all debts between individuals, and in payment of all public dues and taxes, at the rates following; that is to say: The gold coin of France, Spain, Portugal and England, at the rate of five shillings and four-pence the pennyweight; the gold coin of Germany at the rate of four shillings and ten-pence the pennyweight; Spanish milled dollars at the rate of six shillings each; other silver coin uncut, in like proportion; and cut silver coin at the rate of six shillings and eight-pence the ounce.

SEC. II. THE said gold and silver coins shall be, and the same are hereby declared to be a legal tender in discharge of all debts and contracts whatsoever, at the rates aforesaid.

ALL and every act and acts, clause and clauses of acts coming within the purview of this act, shall be, and the same are hereby repealed.

A BILL against Divulgers of false News.

1661. ch. 11. SEC. I. **W**HEREAS many idle and busy headed people do forge and divulge
s. 1. false rumours and reports;

1b. ib. s. 2. SEC. II. *BE it therefore enacted by the General Assembly,* That what person or persons soever, shall forge or divulge any such false reports, tending to the trouble of the country, he shall be, by the next justice of the peace, sent for, and bound over to the next county court; where, if he produce not his author, he shall be fined two thousand pounds of tobacco (or less, if the court think fit to lessen it) and besides give bond for his behaviour, if it appear to the court that he did maliciously publish or invent it.

ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

A BILL reducing into one, the several Acts for the better preservation of the breed of Deer, and preventing unlawful Hunting.

1738. ch. 1. SECTION I. **B**E it enacted by the General Assembly, That it shall not be lawful
s. 2. for any person whatsoever to hunt, shoot, or kill, any buck, between the first day of December and the last day of July, which shall be in any year; nor to hunt, shoot, or kill any doe or fawn, between the first day of January and the last day of September in any year. And if person whatsoever shall presume to hunt, shoot, or kill or destroy any such bucks doe, or fawn, running wild in the woods, within the times herein before respectively limited, or shall

* THE practice of the country in paying and receiving coin, has conformed generally to the regulations made by law for the receipt of money at the treasury in payment of taxes; which induced the Committee to frame this bill:—But perhaps the act of 1st. Geo. 1st. ch. 1st. and of 1st. Geo. 2d. ch. 2d. may not authorise this regulation.—Of this the General Assembly will judge.

buy or receive the same of any Indian, or other person, every such person so offending, shall forfeit and pay the sum of fifty shillings for every deer so killed; to be recovered with costs, by petition, where the penalty complained for at one time does not exceed five pounds, and by action of debt or information, where the same shall exceed five pounds, brought in the court of the county where the offence was committed, by any person suing for the same. 1772. ch. 39. s. 1.

SEC. II. *PROVIDED* always, That it shall and may be lawful to, and for any freeholder or housekeeper, to kill any kind of deer in his corn-fields, or other enclosed grounds, where wheat, peas, or other grain is growing, without being liable to any penalty for so doing. 1738. ch. 1. s. 8.

SEC. III. *PROVIDED* also, That nothing in this act contained shall extend, or be construed to extend, to any person living or being upon the frontiers of this commonwealth, who shall kill any deer for food, for the necessary subsistence of himself or family, so as such person do not sell or dispose of the skin of any deer so killed; and in case any person shall be prosecuted for killing deer within the time prohibited by this act, and such person shall alledge that he killed such deer for food, for the necessary subsistence of himself or family, the *onus probandi* shall lie on the person so prosecuted. Ib. ib. s. 4.

SEC. IV. IF any person whatsoever shall buy or receive into his or her house any deer-skin or skins, which shall have been killed within the time herein before limited, and are commonly called or known by the name of red-skins, he or she so offending, and being thereof lawfully convicted before a justice of peace, in manner aforesaid, shall forfeit and pay ten shillings current money for every skin so bought or received. And for the further preventing the buying and receiving such red skins, Ib. ib. s. 5.

SEC. V. *BE it enacted*, That every constable within this commonwealth shall have full power and authority to search in all suspected places for such red skins of any deer killed contrary to the directions of this act, and to bring the same before some justice of the peace of the county where the offender resides; and if such offender shall not make proof that such skin was taken from a deer killed within his or her enclosed grounds tended as aforesaid, such justice shall immediately give judgment against the offender for the penalty aforesaid. Ib. ib. s. 6.

SEC. VI. IF any person whatsoever, from and after the commencement of this act, shall shoot or kill any deer, and after taking off the skin shall leave the flesh in the woods to rot or be devoured by beasts, every person so offending shall forfeit and pay the sum of twenty five shillings for every deer so killed, skinned, and left in the woods; to be recovered with costs before a justice of peace, where the penalty complained for at one time does not exceed fifty shillings, and where it shall exceed that sum, to be recovered, with costs by petition where it does not exceed the sum of five pounds; and where the penalty shall exceed that sum, to be recovered with costs by action of debt in any court of Record where the same shall be cognizable, and shall be divided, one half to and for the use of the poor of the district where the offence shall be committed, and the other moiety to the informer. And if any person convicted of the offence aforesaid shall not immediately pay down the penalty according to the judgment of such court or justice, or give security for the payment thereof within six months thereafter, such court or justice shall order such person to receive on his bare back five lashes, well laid on, for every twenty five shillings he shall be so condemned to pay, and he shall be thereupon discharged from paying the money aforesaid. 1761. ch. 8.

SEC. VII. IT shall not be lawful for any person to keep any beagles or hounds running at large, but such beagles or hounds shall be constantly kept in kennels, or in couples, or with clogs, except at such times as they are used in hunting by the owner or his servants, under the penalty of five shillings for every beagle or hound so going at large. 1738. ch. 1. s. 7.

1738. ch. 1.
s. 8.

SEC. VIII. WHOSOEVER shall hereafter use any fire hunting, or the killing of any deer by such means, on any patented lands, every person present at such fire hunting shall forfeit and pay twenty shillings for every such offence; and if any Indian be found fire hunting as aforesaid, it shall and may be lawful for the owner of such land, or his or her overseer, to take away the gun of such Indian, and the same to keep to his own use.

1b. ib. s. 9.

SEC. IX. ALL which penalties herein before mentioned and not otherwise recoverable, shall and may be recovered before any justice of the peace in the county where any of the offences aforesaid shall be committed, and shall be divided, one half to the use of the overseers of the poor of the district wherein the offence was committed, and the other half to the person or persons who will inform for the same. And every justice of the peace before whom information shall be made of any of the offences aforesaid, shall take for evidence the confession of the party accused, or the oath of one credible witness; and where the owner of any lands shall prosecute for any unlawful hunting and ranging on his lands, the oath of such owner shall be sufficient evidence to convict the offender, but in that case the whole penalty shall go to the overseers of the poor.

1b. ib. s. 10.

SEC. X. EVERY county court within this commonwealth shall yearly in the month of January, or the next succeeding court, administer to every constable within their respective counties an oath well and truly to present to the next justice of the peace all offences against this act; and every justice to whom such presentment or information shall be made, shall immediately issue his warrant for the bringing before him such offender, and to give judgment and award execution against the goods and chattels of such offender, for the penalties herein before inflicted, for which no other mode of recovery is directed by this act.

1772. ch. 39.
s. 2.

SEC. XI. AND for the more effectual discovery of persons offending against this act by the hunting, shooting, or killing any buck, doe, or fawn within the respective times herein limited and prohibited, *Be it further enacted*, that the presiding justice of every county court in this commonwealth, at the time the grand jury for his county shall be sworn, shall give it in charge to the said grand jury, to make enquiry and presentment of all such offenders, and, on conviction, the penalty shall go to the use of the overseers of the poor of the district where the offence was committed, towards lessening the poor rates.

1b. ib. s. 3.

SEC. XII. EVERY grand jury shall take an oath at the time they are impanelled to make due presentment of all and every person within their county whom they know to have been guilty of a breach of this act.

1b. ib. s. 5.

SEC. XIII. IF any person shall shoot, or otherwise kill, any tame deer having a bell or collar on its neck, every person so offending shall be liable to an action of trespass to the person whose property the same shall be, to be prosecuted in the court of the county where the offence shall be committed.

1b. ib. s. 6.

SEC. XIV. IF any person or persons, not being a freeholder, shall on conviction fail to make present payment of the penalties and forfeitures by this act inflicted, to the person or persons entitled to receive the same, or give security to pay the same within six months after such conviction, or, where the penalty shall be to the overseers of the poor, at the laying of the next poor rates of the district wherein the offence shall be committed, then, or in either case, he or they so offending, shall, by order of such justice, or the court before whom the conviction shall be made, receive for every such offence twenty lashes on his or their bare back, well laid on; and if any such offenders shall refuse to pay the money on the bonds aforesaid when the same shall become due, it shall and may be lawful for such justice, or the court of the county where such offender or offenders reside, on a motion to them made by the informer, or the overseers of the poor, (as the case may be) to give judgment on the said bonds, and thereon to award execution; provided such offender or offenders, and his or their securities, his and their heirs, executors, or administrators have ten days previous notice in writing.

ALL and every act and acts, coming within the purview of this act, shall be, and the same are hereby repealed.

PROVIDED always, That nothing in this act contained shall be construed to repeal any act heretofore made for so much thereof as may relate to any offence committed or done before the commencement of this act.

A BILL concerning the Right of Entry; and giving remedy against collusive Judgments of Lands, and wrongful Alienations thereof, in certain Cases.

SECTION I. **W**HERE a husband doth lose the lands of his wife by default, ^{13. Edw. 1st.} it is unreasonable that the wife after the death of her husband ^{ch. 3.} should have no other recovery but by writ of right:

SEC. II. *BE it therefore enacted by the General Assembly,* That a woman after ^{ib. ib.} the death of her husband, shall not be injured by such default, but shall notwithstanding retain her right of entry, and may prosecute the same, by any real or mixed action that may best suit the case. If the tenant shall object to the wife's claim, that he entered by judgment, and it be found that his entry was by default, to which he shall answer, if required; he shall then further answer and shew his right in like manner as in the writ he first purchased against the husband and wife; and if he can shew such right, the wife shall gain nothing by her writ: But if the husband absent himself and will not defend his wife's right, or against the wife's consent, will render the wife's lands in any suit instituted against the husband and wife for lands which are her inheritance during the coverture, then the wife may come at any time before judgment, and defend her right.

SEC. III. IF tenant in dower, tenant by the curtesy, or otherwise for term of life, or by gift, where the reversion is reserved, do make default, or will give up, ^{ib. ib.} the heirs or they unto whom the reversion belongeth, shall be admitted to their answer if they come before judgment; and if upon such default or surrender, judgment happen to be given, then the heir, or they unto whom the reversion belongeth, after the death of such tenants, shall in no wise be injured by such default or surrender.

SEC. IV. THE dying seized hereafter of any disseisor having no right or ^{32. H. 8th.} title, shall not be such descent in law as to take away the right of entry from such ^{ch. 33.} as, at the time of the death of the disseisor, had lawful title of entry, except such disseisor hath had peaceable possession five years next after the disseisin committed without entry, or continual claim of such as have lawful title.

SEC. V. NO feoffment, or other conveyance, or other act or acts hereafter to ^{ib. ib. ch. 28.} be made, suffered, or done by the husband only, of any lands, tenements, or hereditaments, being the inheritance or freehold of his wife, during the coverture ^{s. 6.} between them, shall in any wise be, or make any discontinuance thereof, or be prejudicial or hurtful to the said wife or her heirs, or to such as shall have right, title, or interest to the same, by the death of such wife; but the said wife, or her heirs, and such other to whom such right shall appertain after her decease, shall and may then lawfully enter into all such lands, tenements and hereditaments, according to their rights and titles therein, any such feoffment, or other conveyance, or act, to the contrary notwithstanding.

ALL and every statute and act, or clause and clauses of any statute or act, coming within the purview of this act, shall be, and the same are hereby repealed.

PROVIDED nevertheless, That nothing herein contained, shall be construed to affect any right which may have accrued, or been vested before the commencement of this act.

A BILL reducing into one, the several Acts concerning the Fees of certain Officers, and declaring the Mode of discharging the said Fees, and County Levies.

1745. As altered by subsequent regulations,

SECTION I. **B**E it declared and enacted by the General Assembly, That it shall and may be lawful for the clerk of the Council, the Register, the clerks of the General Court, High Court of Chancery, Court of Appeals, District Courts, clerks of Corporation courts, and all county court clerks, sheriffs, coroners, constables, and surveyors respectively, to demand, receive, and take the several fees herein after mentioned and allowed, for any business by them respectively done, by virtue of their several offices, and no other fees whatsoever: That is to say:

TO THE CLERK OF THE COUNCIL.

For every testimonial,

£. s. d.
0 10 0

TO THE REGISTER.

May, 1780.
ch. 7. s. 1.

	lbs. of Tobacco.
For issuing a warrant of survey and recording the same,	30
For every warrant issued in exchange for another warrant, or where lands claimed under a former warrant, shall be recovered upon a caveat, and recording the same,	30
For receiving a plat and certificate, and giving a receipt for the same,	5
For issuing and recording a grant thereupon, if the quantity therein contained exceed not four hundred acres,	60
For every hundred acres, exceeding that of four hundred,	5
For recording a plat and certificate of survey, if the quantity does not exceed four hundred acres,	20
For every hundred acres exceeding that quantity,	5
For entering a caveat, or for a copy thereof,	20
For a copy of any grant or patent of land,	30
For a search for any thing, or for reading the same, if a copy be not required,	10
For keeping a regular account of warrants, examined and cancelled, to be paid by the treasurer, on the auditor's warrant, for each warrant,	3

TO THE SURVEYOR.

October 1783,
ch. 32, s. 3.

For every survey by him plainly bounded as the law directs, and for a plat of such survey, after the delivery of such plat, where the survey shall not exceed four hundred acres of land,	250
For every hundred acres contained in one survey above four hundred,	12
For surveying a lot in a town,	20
And where a surveyor shall be stopped or hindered from finishing a survey by him begun, to be paid by the party who required the survey to be made,	125
For running a dividing line,	100
For surveying an acre of land for a mill,	50
For every survey of land formerly patented, and which shall be required to be surveyed, and for a plat thereof delivered as aforesaid, the same fee as for land not before surveyed.	
And where a survey shall be made of any lands which are to be added to other lands, in an inclusive patent, the surveyor shall not be paid a second fee for the land first surveyed, but shall only receive what the survey of the additional land shall amount to.	
And where any surveys have been actually made of several parcels of land adjoining, and several plats delivered, if the party shall desire one inclusive plat thereof, the surveyor shall make out such plat for	50
For running a dividing line between any county or parish, to be paid by such respective counties or parishes, in proportion to the number of tithables, if ten miles or under,	500

	lbs. of Tobacco.
And for every mile above ten,	15
For receiving a warrant of survey, and giving a receipt therefor,	8
For recording a certificate from the commissioners of any district of a } claim to land allowed by them, to be paid by the claimant,	8
For making an entry for land, or for a copy thereof,	8
For a copy of a plat of land, or of a certificate of survey,*	12

SEC. II. *PROVIDED* always, That where any person shall employ a survey- 1745. ch. 1.
or, and shall have received a plat of the land surveyed, and afterwards shall assign s. 8.
the land to any other, either before or after obtaining a patent for the same, if
such person for whom the land was first surveyed, shall not have paid for the said
survey, it shall and may be lawful for the sheriff of the county wherein such assign-
nee shall reside, at the instance of such surveyor, to make distress upon the slaves,
goods and chattels of such assignee, in like manner as is herein after provided for
surveyors or other officer's fees refused or delayed to be paid.

TO THE CLERK OF THE COURT OF APPEALS.

The same fees with those of the High Court of Chancery and General
Court, for similar services.

TO THE CLERK OF THE HIGH COURT OF CHANCERY.

For filing a bill, answer, replication, or other pleadings, each,	15
For a copy thereof, for every twenty words,	1
For entering every decree,	10
For drawing up every decree at large, entering the substance of the bill, answer, and other pleadings, the substance of the evidence and the de- } cree thereupon, for every twenty words,	1
For filing the depositions in every cause, in behalf of each party,	15
For a copy of the depositions, for every twenty words,	1

TO THE CLERK OF THE GENERAL COURT.

For a copy of a warrant and inquisition of escheat,	£. s. d.	1745. ch. 1.
Or of an inquisition of escheat,	0 11 6	
	0 5 0	
	lbs. of Tobacco.	
For the probatation of any testament and recording the same, for entering the orders for appraising the estate, recording the inventory, writing and sealing the probat, or any other matter concerning the same, or for a commission of administration of the goods of any person dying intestate, for entering the order or orders for appraising the estate, re- } cording the inventory, or for any other matter concerning the same, } where the appraisement doth not amount to above one hundred } pounds,	200	
Or where the appraisement exceeds one hundred, and is under five hun- } dred pounds,	300	
Or where the appraisement exceeds five hundred pounds, or there is no } appraisement.	400	
For a copy of a probat, or commission of administration,	40	1784. ch. 60.
For recording the certificate of a probate, or administration,	10	1745. ch. 1.
For a copy of a will, or inventory,	40	
And if the original is contained in more sheets than one, for a copy of } every such sheet,	30	
For a copy of an act of Assembly,	40	
For a copy of an account,	20	
For recording of a deed or deeds for the conveying or settling any lands or tenements only, or together with slaves or personal estate, or any way concerning the same, acknowledged or proved in the General } Court.	150	
For a copy of such deed or deeds, with the endorsements thereon, and for a certificate of the acknowledgment or proof, and recording,	90	

D

* *Vide* section 54, (page 130. of vol. 1st.) of the bill "For reducing into one the several acts
concerning the land office, &c."

		lbs. of Tobacco.
	For issuing a commission to take the acknowledgment and privy examination of a <i>feme covert</i> , and recording it, with the return of the commissioners,	50
	For a copy thereof,	30
	For recording a deed concerning slaves, or any personal matter only,	70
	For a copy thereof with a certificate of the acknowledgment or proof, and recording,	40
1758. ch. 1.	<i>Provided however</i> , that for a deed of <i>gift</i> for slaves only, or for a copy thereof, there shall be allowed only,	20
1745. ch. 1.	For recording a letter of attorney, acknowledged and proved in the General Court, and every thing relating thereto,	70
	For a copy thereof,	40
	For recording a bond with condition other than for performance of covenants in deeds of conveyance or settlement of lands,	40
	For a copy of a bond, with condition,	20

IN ACTIONS, AND OTHER SUITS.

For every writ of error, <i>superfedeas</i> , or <i>scire facias</i> ,	25
For taking bond on issuing a writ of error, or <i>superfedeas</i> ,	25
For every other writ, in any action or suit whatsoever,	20
For entering the sheriff's return, and entering the bail by him returned, in the rule book,	20
For entering special bail,	20
For entering the personal appearance of the plaintiff or defendant or the appearance of an attorney for either party,	10
For entering security for costs for persons out of the country,	20
For filing a declaration and every plea or demurrer in any cause to the making up of the issue, and for filing errors upon appeals, writs of error, or <i>superfedeas</i> ,	20
For a copy of every declaration, plea or demurrer, or of errors,	20
For every rule, entered in the rule book,	20
For a copy of every rule,	10
For every order in court before trial,	10
For a copy of the same,	10
For filing papers for each party in any action or suit,	15
For docketing every cause on the docket, (to be charged but once,)	10
For every trial, swearing the jury and witnesses, and recording a general verdict,	50
For administering an oath or affirmation in court, except witnesses to a Jury,	10
For every trial where there is a special verdict, swearing the witnesses and jury, and recording such verdict,	75
And where there is no jury, but a case agreed,	25
For swearing witnesses for each party in every cause where there is no jury,	15
For a copy of a case agreed, or notes of a special verdict,	25
For entering every order made in court, after verdict, or demurrer joined,	10
For entering every continuance on the court docket,	10
For entering every judgment,	10
For making a complete record of every cause, inserting a case agreed, or special verdict at large from the notes, and all deeds and other evidences at large, for every twenty words,	1
For a copy thereof or any part thereof, the same.	
For a recognizance in court,	20
For filing a return of a <i>Habeas Corpus</i> ,	15
For filing the record on a writ of error,	15
For a copy of such record, for every twenty words,	1

TO THE CLERK OF THE GENERAL COURT OR HIGH COURT OF CHANCERY.

[as the case may be]

For taking a bond upon issuing injunctions,	25
For every <i>dedimus potestatem</i> ,	20
For recording the report of auditors when it is desired,	40
For making a complete record of every cause, for every twenty words,	1
For filing the return of a <i>certiorari</i> ,	15
For taxing the costs in any action or suit, and a copy thereof,	20

	lbs. of Tobacco.
For recording any thing not herein particularly mentioned, or for a copy thereof, for every twenty words,	1
For a search for any thing, if above a year's standing, or reading the same, or any part thereof, if required, <i>if a copy be not taken,*</i>	10
For every order to a witness for attendance (to be charged to the party against whom the order goes).	10

TO THE CLERKS OF THE DISTRICT COURTS.

† For issuing a summons on a petition for lapsed-lands,	50
For every order thereon,	15
In all other cases, the same fees with those of the county courts for similar services; and for all other services the same as those of the Clerk of the General Court.	1788. ch. 67. s. 21.

TO THE CLERK OF A DISTRICT COURT, OR THE CLERK OF THE HIGH COURT OF CHANCERY.

[as the case may be]

For filing the record upon an appeal, or <i>superfedeas</i> from a county court, or any inferior court,	15
For a copy of such record, for every twenty words,	1
	1745. ch. 1.

TO THE CLERKS OF THE COUNTY AND CORPORATION COURTS.

	£.	s.	d.
For every writ in the nature of an <i>ad quod damnum</i> , (to be paid upon issuing such writ,	0	5	0
For recording the same, with the inquisition thereupon (to be paid before inquisition recorded)	0	11	6
For a copy of such writ and inquisition (to be paid down)	0	5	0
	lbs. of Tobacco.		
For taking a bond upon issuing injunctions in chancery,	20		
For recording deeds of lease and release, for conveying or settling of lands only, or together with slaves and personal estate, bond to perform covenants, certificate of the proof or acknowledgment, as the case is, and all matters relating thereto,	150		
For a copy thereof,	55		
For recording every deed of feoffment, or bargain and sale, or other single deed, for conveying or settling lands and tenements only, or together with slaves and personal estate, bond to perform covenants, certificate of the proof or acknowledgment, as the case is, and all matters relating thereto,	100		
For a copy thereof.	40		
For issuing and recording a commission to take the acknowledgment and privy examination of a <i>feme covert</i> , with a certificate of the commissioners, if such commission be required,	40		
For a copy thereof,	20		
For recording a patent,	50		
For a copy thereof,	25		
For recording a deed concerning slaves, or any personal matter or thing only, with certificate of its proof or acknowledgment,	40		
For a copy thereof,	30		
<i>Provided however</i> , that for a deed of gift for slaves only, or for a copy thereof, there shall be allowed only,	20	1758. ch. 1. s. 6.	
For recording a letter of attorney,	30	1745. ch. 1. s. 2.	
For a certificate of the proof or acknowledgment thereof,	10		
For a copy of a letter of attorney with such certificate,	25		
For recording a bond, with condition, other than for performance of covenants in deeds of conveyance, or settlement of lands,	20		

* By the 7th Geo. 3d. ch. 26. s. 2. (1766) no fee is allowed for a search for any thing where a copy is taken.

† 1745. ch. 1. allows 50 lbs. of tobacco for every petition for lapsed-lands, for writing it and issuing a summons thereon. It is presumed that no petition for lapsed-land can now be issued; but some old cases still depend in the District Courts, in which summonses may be necessary. The General Assembly will apportion the fee, if they think it necessary to do so.

	lbs. of Tobacco.
For a copy of a bond, with condition, other than an appeal bond the same.	
For a copy of any other obligation, or promissory note,	10
For the probation of any will or testament, and recording the same, entering the order or orders for appraising the estate, and for any other matter concerning the same, where the will shall be contained in one sheet,	40
And if the will is contained in more than one sheet, for every such sheet,	20
For a commission of administration of the goods of any person dying intestate, for entering the order or orders for appraisement, and for any other matters concerning the same,	40
For recording an inventory where the appraisement doth not amount to more than ten pounds,	10
Where the appraisement exceeds that value, and is under fifty pounds,	50
And where it shall exceed fifty pounds, and is under one hundred pounds,	100
And where it shall exceed one hundred pounds, or there is no appraisement,	250
For a copy of a will or inventory if the original is contained in one sheet,	30
If the original is contained in more sheets than one, for a copy of every such sheet, besides the first,	20
For a copy of an act of Assembly,	40
For recording the age of a servant or slave, adjudged in court,	10
For a certificate thereof if required,	8
For attending a court for examination of criminals and trial of slaves, if the court is held for that purpose, (to be paid by the public)	200
For a copy of a list of tithables, in his precinct,	20
For the whole fee for an ordinary license and bond,	50
For a copy of the rates of liquors,	15
* For a marriage license, certificate and bond,	50
For every search for any thing above a year's standing, if a copy be not taken, †	5
For reading any thing, if a copy be not required.	5

1787. ch. 44
1745. ch. 1,
s. 2.

IN ACTIONS, AND OTHER SUITS.

For every writ, other than such as are herein particularly mentioned,	10
For a copy of such writ,	5
For every writ of execution, or <i>scire facias</i> ,	15
For a copy thereof,	8
For recording the return thereof,	8
For a writ of attachment, in any action,	15
For recording the return thereof,	15
For an attachment granted by a justice of the peace returnable to the court, and recording the return and putting the same on the docket,	20
For every summons to summon a garnishee on such attachment,	10
For filing every bail bond, or entering the bail returned,	10
For docketing every cause, except by petition, (to be charged but once)	5
For a copy of the return of any writ,	3
For entering special bail,	10
For entering security for costs for persons out of the country,	10
For entering the appearance of the defendant or defendants where there is no attorney, in any suit, except by petition,	5
For entering one or more attorneys for each party,	5
For every petition, declaration, or other pleadings, except in suits by petition for debt, detinue, assumpsit, or trover,	10
For a copy of any declaration, special plea, or demurrer,	10
For a copy of a plea, if the general issue,	3
For every trial, swearing the jury and witnesses, filing all papers, and recording a general verdict,	40
For every trial where there is a special verdict, or case agreed and recording the same,	65
For swearing the witnesses in every other cause, where there is no jury or case agreed, except by petition,	10
For filing the papers of each party in every cause, except by petition, and where there is a jury or case agreed,	10

* By the acts of October 1784, ch. 76. sec. 5. the fee for a marriage license is fifteen pence—vide bill for solemnization of marriages, &c. sec. 6.

† Vide note page 15.

	lbs. of Tobacco
For a copy of a special verdict, or case agreed, and every thing therein set forth, or for making up a full and complete record for every thirty words, }	1
For entering every judgment, or for a copy thereof,	10
For filing a bill, answer, replication, and other pleadings in chancery, } for each,	10
For a copy thereof, for every thirty words,	1
For a commission to examine witnesses,	25
For attending and writing depositions taken against inspectors before jus- } tices of the peace,	100
For entering every decree in chancery,	15
For filing the depositions in any suit, for each party,	5
For every deposition taken in court,	10
For a copy of a deposition,	10
For administering an oath in court not relating to the trial of any cause } there depending, and certifying the same,	10
For every recognizance in court,	10
For entering the order or orders in any cause in one court,	15
For entering every order for attendance of witnesses,	10
For a copy of any order,	10
For recording the report of a jury in the county, surveyor, auditor, or } viewers,	20
For a copy thereof,	20
For taxing costs to any judgment or decree where costs are recovered, } or for a copy of a bill of costs, if required,	11
For a copy of an account,	10
For entering an appeal, and taking bond to prosecute it,	20
For a copy of the bond,	10
For returning an appeal and security to the office of the Court of Chan- } cery, or a District Court, (as the case may be,)	30
For returning a writ of error, <i>superfedeas</i> , <i>certiorari</i> , or <i>habeas corpus</i> ,	20
For a copy of the proceedings of the cause wherein the appeal is granted, } for every thirty words,	1
For recording the acknowledgment of satisfaction of a judgment,	10
For entering each order for a witness's attendance (to be charged to the } party in whose behalf the witness is summoned, and taxed in the bill of } costs, if such party recover,)	10
For a copy thereof (to be taxed and charged in like manner,)	10
For an attachment thereon (to be charged to the party against whom the } attachment shall be issued,)	10
For the whole fee chargeable for every petition for debt, detinue, assump- } sit, or trover, and all the proceedings therein, including a copy of the } judgment, and taxing costs, if required, except the respective fees for } summoning witnesses, entering attorneys, for every order for continu- } ance, and for issuing execution, where any of those matters happen,	50
For entering an attorney in such petitions (to be paid by the party by } whom such attorney shall be employed, and not to be taxed in the bill } of costs,)	5
For a summons for several witnesses living in one county, if summonses } for all be taken out at one time,	10
For recording any thing not herein particularly mentioned, or for a copy } thereof, for every thirty words,	1
For the acknowledgment and proof of any deed in the County Court, } and for certifying the same to be recorded in the General Court,	30

SEC. III. WHICH said several fees shall be charged to the party at whose in-
stance the business shall be performed, except where it is otherwise directed.

SEC. IV. THE commissioner of the High Court of Chancery may issue his
tickets for the sums allowed by the said court, for services performed by him under
the orders of the said court, and deliver them to the respective sheriffs, at the same
time the clerk of the said court is directed by law to deliver his tickets; and the se-
veral sheriffs shall collect and account for them in the same manner, and under the
like penalties, and shall have the same allowance for collecting and for insolvencies,
as are prescribed in the case of the clerk of the said High Court of Chancery.

1789. ch. 35.

1745. ch. 1. SEC. V. IF any plaintiff or defendant, or his or her attorney, shall take out copies of his or her own declaration or pleadings, or of his or her own papers in any cause, or of any common order made in such cause, the charge of such copies shall not be allowed in the bill of costs, although such party recover; and where more attorneys than one shall be employed in any cause on one side, if such attorneys take out more than one copy of any thing necessarily relating to the suit, yet no more than one copy shall be allowed in the bill of costs; neither shall the clerk tax any fee in the bill of costs for entering more than one attorney, although costs shall be adjudged against the adverse party.

	lbs. of Tobacco.
FOR all public services of the clerk, viz. entering and issuing copies of orders for appointing surveyors of highways, appointing constables, grand juries, taking a list of tithables, entering guardians accounts and all matters relating thereto, binding out poor orphans and appointing guardians, entering the levy and copies thereof, and of the list of tithables for the collector, and for entering and issuing the orders, except against guardians where they shall stand out in contempt (to be charged to such guardian,) and issuing the orders for recommending sheriffs and justices, and for processioning, and all other public services for which no particular fee is allowed (to be levied annually by the justices of the county) besides cash.	1200

Ib. ib. SEC. VI. AND when any person or persons, presented by the grand jury, or prosecuted by the overseers of the poor, shall be discharged from any such presentment or prosecution, the clerk shall charge no fees for the same, or any matter relating thereto, but the same shall be deemed to be included in the public services; but if the party or parties so presented or prosecuted shall be convicted, then, in such case, the clerk shall charge him, her, or them, so convicted, with all the fees accruing thereon.

SEC. VII. AND where a motion or suit shall be instituted against any person or persons for money due to the public, in the name of, or by the person authorized by law so to do, and judgment shall be recovered against him, her, or them, the clerk of the court wherein such motion or suit shall be instituted shall and is hereby required to charge all the fees accruing thereon to the person or persons against whom such judgment shall be obtained.

SEC. VIII. NO county court clerk shall charge any fee for making up a complete record unless it be in causes where the title or bounds of lands are determined, or where he is to transmit the transcript of the record of any cause to the office of a superior court upon appeals, writs of error, *superfedeas*, *habeas corpus*, or *certiorari*.

SEC. IX. AND to the end all persons chargeable with any of the fees aforesaid may certainly know for what the same are charged; *Be it further enacted*, that none of the fees herein before mentioned shall be payable by any person whatsoever until there shall be produced, or ready to be produced unto the person owing or chargeable with the same, a bill or account in writing containing the particulars of such fees, signed by the clerk or officer to whom such fees shall be due, or by whom the same shall be chargeable respectively; in which said bill or account, shall be expressed, in words at length, and in the same manner as the fees aforesaid are allowed by this act, every fee for which any money or tobacco is or shall be demanded.

1790. ch. 3. SEC. X. ALL persons who shall be chargeable with any tobacco fees due to clerks, may discharge the same either in tobacco or specie, at the rate of ten shillings and five pence per hundred weight upon the gross tobacco.

TO THE SHERIFF OR SERJEANT.

(as the case may be)

	lbs. of Tobacco.
For an arrest, bond, and return,	30
For returning a <i>capias</i> , <i>non est inventus</i> ,	10
For serving a <i>scire facias</i> ,	15
For serving any person with an order of court, and making return thereof,	15
For pillorying any person,	20
For putting into the stocks,	10
For ducking any person,	20
For putting in prison and releasement,	20
For serving a subpoena in chancery,	15
For serving a summons upon a petition for debt, detinue, assumpsit, or trover,	15
For serving a subpoena for a witness in any cause in court, except summoned in court,	10
For summoning an appraiser, auditor, viewer, or witness to any deed, will, or writing, if required to be summoned, but not else,	10
For summoning and empannelling a jury, in every cause wherein a jury shall be sworn,	50
For coming to and attending the district court with the <i>venire</i> and return of the <i>venire facias</i> , the same as is allowed to a <i>venire</i> man, (to be paid by the public) and for attending the District with stolen goods where there is no <i>venire</i> , the same,	
For summoning the justices of the county and attending a court for the examination of a criminal (to be paid by the public)	200
For removing of every criminal from the county gaol to a district gaol, for every mile,	5
For removing a debtor by <i>habeas corpus</i> from the county gaol to a district gaol, for every mile,	2
For executing every condemned person, and all fees incident (to be paid as aforesaid)	250
For summoning a jury upon any inquisition, survey, writ of dower, or partition, if the jury appear,	150
And if the jury do not appear,	75
For making a return of a writ of dower, partition, or in the nature of an <i>ad quod damnum</i> ,	50
For every day's attendance upon a jury in the country after they are sworn, or attendance upon a surveyor, when ordered by the court,	50
For serving a writ of <i>habere facias seisinam</i> , or <i>habere facias possessionem</i> ,	50
For serving an attachment upon the body,	30
For serving a declaration in ejectment if against one tenant,	30
And if against more tenants than one, for serving the declaration on every other tenant,	15
For whipping a servant, (to be paid by the owner) and repaid by the servant,	20
For whipping a free person by order of court, (to be paid by such person) the same,	
For whipping a slave by order of court, (to be paid by the county) and repaid by the public,	20
For taking a bond or bonds to the creditor under the act, intituled "An act for reducing into one the several acts concerning executions, and for the relief of insolvent debtors,"	30
* For proceeding to sell on any execution on behalf of the commonwealth, or of any individual, if the property be actually sold, or the debt paid, the commission of five <i>per centum</i> on the first hundred pounds, or ten thousand pounds of tobacco, and two <i>per centum</i> on all sums above that, and one half of such commission where he shall have proceeded to sale, and the defendant shall have replevied, and no other commission, fee, or reward, shall be allowed upon any execution, except for the expence of removing and keeping the property taken.	1788. ch. 77. s. 4. 1791. ch. 3. s. 7.

* Some doubt existing whether, upon executions in behalf of the commonwealth, the commission of five per centum on serving an execution, was still allowed under the fee bill of 1745. ch. 1. notwithstanding the acts of 1783, ch. 77. and 1791, ch. 3. The committee have in conformity to what they supposed the intention of the legislature, confined the said commission to the cases of actual sale, or payment of the debt, on public as well as private executions, and submit to the legislature whether the officers in the former case shall have a greater, or the same commissions as in the case of individuals.

	lbs. of Tobacco.
For serving an attachment upon the goods exceeding three pounds, if sold, the same fee as for serving an execution, where the goods do not exceed that value, or are not sold,	30
For every garnishee summoned on such attachment,	10
*For executing any writ of <i>distingas</i> or attachment on a decree in chancery, the same fee or commissions, upon the amount of the value of the goods and chattels recovered, or money mentioned in such decree, as is by law allowed for serving any other execution.	
For serving and returning a General or District Court writ, summons or order, where the same is not comprehended in any of the foregoing articles,	30
For making proclamation as the law directs in proving of wills, or proceeding to outlawry,†	20
For selling a servant at public outcry by order of court, and all fees incident,	20
For keeping and providing for a debtor in gaol, each day,‡	10
For serving a justice's warrant,	10
For summoning a witness before a justice,	5
For all public services of the sheriff, to wit, attending the courts of claims, empannelling grand juries, publishing writs for electing delegates or senators, and attendance serving all public orders of court, except against guardians, where they shall stand out in contempt, (to be charged to such guardian) and all other public and county services (to be levied annually by the justices on the county) besides caik,	1200

1745. ch. 1.
s. 7.

[SEC. XI. AND when any person or persons presented by the grand jury, or prosecuted by the overseers of the poor, shall be discharged of such presentment or prosecution, the sheriff shall charge no fees for the same, but it shall be deemed to be included in the public services; but if the party or parties so presented or prosecuted shall be convicted, then, in such case, the sheriff shall charge him, her, or them, so convicted, with all fees accruing thereon.

TO THE CORONER.

	lbs. of tobacco.
For taking an inquisition on a dead body, (to be paid out of the estate of the deceased) if the same be sufficient, if not, by the county,	133
For all other business done by him, the same fees as are allowed the sheriff for the same services,	

TO THE CONSTABLE.

For serving a warrant,	10
For summoning a witness,	5
For summoning a coroner's jury and witnesses,	50
For putting into the stocks,	10
For whipping a servant, (to be paid by the owner and repaid by the servant,)	10
For serving an execution or attachment returnable before a justice,	10
For serving an attachment returnable to the county court against the estate of a debtor removing his effects out of the county,	30
For whipping a slave, (to be paid by the overseer, if the slave is under an overseer; if not, by the master) one shilling, or	10

* This clause is taken from 1769. ch. 3. sect. 4.—The officer perhaps would have a right to claim five per centum on the whole amount, whether the property be delivered, or the decree in chancery be performed, or not.—Whether the full commission is intended to be allowed in such cases, the legislature will determine.

† A question has arisen whether the act of 1785. ch. 61. (ingrafted in the bill "Reducing into one the several acts concerning wills, &c." page 141 of Vol. 1st.) has not repealed the act 1748. ch. 3. sect. 4. so far as the act last mentioned required a summons to be served on the heir or heirs, and proclamation to be made; and whether the act of 1785. hath not confined to the Court of Chancery, the power of setting aside a will on an issue, to be directed of *deviseavit vel non*.—Vide note to sect. 11th of the bill "Reducing into one the several acts concerning wills, &c."

‡ For sheriff's fee for peeping and dieting criminals—vide the 31st section of the bill "Reducing into one the several acts concerning the establishment, jurisdiction, and powers of District Courts."

For removing any person suspected to become chargeable to the county, } lbs. of Tobacco.
 (to be paid by the overseers of the poor) for every mile, } 2
 The same for returning.

SEC. XII. THE clerks of the General Court, High Court of Chancery, 1745. ch. 1;
 Court of Appeals, and District Courts, shall cause to be set up in some public s. 9.
 place in their offices, and there constantly kept, a fair table of their fees herein be-
 fore mentioned, on pain of forfeiting two thousand pounds of tobacco for
 every court day the same shall be missing, through their neglect; and the clerk of
 every county and corporation court shall in like manner set up a fair table of all
 other fees herein before mentioned, in the courthouse of his county, to be there
 constantly kept, on pain of forfeiting one thousand pounds of tobacco for every court
 day the same shall be missing, through his neglect. And the surveyor of every Oa. 1783. ch.
 county shall also cause to be set up in some public place in his office, and there s. 5.
 constantly kept, a fair table of his fees herein before mentioned, on pain of forfeit-
 ing one hundred pounds: All which penalties shall be to the person or persons
 who shall inform or sue for the same, and shall and may be recovered in any court
 of record within this commonwealth, by action of debt or information.

SEC. XIII. IF any officer (except the surveyor*) hereafter shall claim, charge, 1745. ch. 1.
 demand, exact, or take, any more or greater fees, for any writing or other busi- s. 10.
 ness by him done, within the purview of this act, than herein before set down and
 ascertained, or if any officer whatever shall charge, or demand and take any of
 the fees herein before mentioned, where the business for which such fees are charge-
 able shall not have been actually done and performed (to be proved by the fee-
 book of such officer, upon his corporal oath) such officer for every such offence
 shall forfeit and pay to the party injured, besides such fee or fees, two hundred
 pounds of tobacco for every particular article or fee so unjustly charged or demand-
 ed, or taken; to be recovered with costs, in any court of record in this common-
 wealth, by action of debt or information; *Provided*, the same be sued for within
 twelve months after the offence shall be committed.

SEC. XIV. AND for the better collecting the said fees, *Be it enacted*, That 1787. ch. 52
 the surveyor of every county shall, annually, before the twentieth day of January, and
 the clerks of every district, county, and corporation court, respectively, shall, an-
 nually, before the first day of March, deliver or cause to be delivered to the she- Oa. 1778.
 riff of every county in this state, and to the serjeants of every corporation, respec- ch. 14.
 tively, their accounts of fees due from any person or persons residing therein; which
 shall be signed by the clerks or surveyors, respectively. And the said sheriffs and
 serjeants are hereby required and empowered to receive such accounts, and to col-
 lect, levy, and receive the several quantities of tobacco therein charged, or money
 at the rate prescribed by law, of the persons chargeable therewith; and if such per-
 son or persons, after the said fees shall be demanded, shall refuse or delay to pay the
 same till after the tenth day of April in every year, the sheriff of that county or
 serjeant of that corporation wherein such person resides, or of the county in which
 such fees became due, shall have full power, and are hereby required, to make
 distress of the slaves, or goods and chattels, of the party so refusing or delaying
 payment, either in that county or corporation where such person inhabits, or where
 the same fees became due. And the sheriff of any county, or serjeant of a corpo-
 ration, for all fees which shall remain due and unpaid after the said tenth day of
 April in any year, either to themselves or the sheriffs or serjeants of another coun-
 ty or corporation, which shall be put into his hands to collect as aforesaid, is hereby
 authorised and empowered, to make distress and sale of the goods and chattels of
 the party refusing or delaying payment, in the same manner as for other fees due to
 any of the officers herein before mentioned; but no action, suit, petition, or war-
 rant from a justice, shall be had or maintained for clerks or surveyors fees, un-
 less the sheriff or serjeant shall return that the person owing or chargeable with such
 fees hath not sufficient within his bailiwick whereon to make distress, except where
 the clerk, or other officer as aforesaid, shall have lost his fee-book by fire or other
 misfortune, so that he be hindered from putting his fees into the sheriff's hands to

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* As to penalty on Surveyors, see sec. 55. of the bill "for reducing into one, the several acts
 concerning the land office, &c." (Vol. 1. p. 130)

collect; and in that case any suit or warrant may be had and maintained for the recovery thereof. And if any sheriff shall be sued for any thing by him done in pursuance of this act, he may plead the general issue, and give this act in evidence.

1745. ch. 1.
s. 13.

SEC. XV. EVERY sheriff of every county, and every serjeant of every corporation, shall, on or before the last day of May in every year, account with the clerks of the respective district, county, and corporation courts, and the respective surveyors, for all fees put into his hands pursuant to this act, and pay the same, abating six *per centum* for collecting. And if any sheriff or serjeant shall refuse to account or pay the whole amount of fees put into his hands, after the deductions aforesaid made, together with an allowance of what is charged to persons not dwelling, or having no visible estate, in his county, it shall and may be lawful for the clerks or surveyors, upon a motion made in the next succeeding District Court, or in the court of the county of such sheriff, or in the court of the corporation of such serjeant, to demand judgment against such sheriff or serjeant, for all fees wherewith he shall be chargeable by virtue of this act; and such court is hereby authorized and required to give judgment accordingly, and to award execution thereupon; provided the sheriff have ten days previous notice of such motion.

1787. ch. 52.
s. 2.

SEC. XVI. *PROVIDED* always, That all fees due to surveyors shall be collected in money, at the rate prescribed by law, of the persons chargeable therewith, and not in tobacco.

1785. ch. 38.

SEC. XVII. THE clerks of the Court of Appeals, High Court of Chancery and General Court, to whom the fees formerly allowed to the secretary are now payable, shall deliver their tickets to the respective sheriffs and serjeants, annually, before the first day of May, and the sheriffs and serjeants shall receive and collect the same, and shall distrain and make sale of the debtor's slaves, goods, or chattels, for all such tickets as shall remain unpaid after the first day of July in any year. And if the said sheriffs or serjeants shall fail to pay the said fees to the respective clerks, at their offices in Richmond, or such town or place as the treasury may be kept at, by the fifteenth day of September, annually, abating ten *per centum* for collecting and making an allowance for insolvencies and non-residents having no estates within their counties, which shall be accounted for on oath; the said clerks, or either of them, upon motion made in the court of the district, county, or corporation, in which the sheriff or serjeant failing to make payment as aforesaid may be found, may demand judgment against him for all fees wherewith he shall be chargeable by this act, and such court respectively shall enter judgment accordingly, provided the sheriff have ten days notice of such motion; and judgment may be obtained as aforesaid against any under sheriff who may fail to add the name of his principal to the receipt for such fees.

SEC. XVIII. THE executors or administrators of any such sheriff, under sheriff, or serjeant, shall be liable to judgment as aforesaid, for the fees received, to be collected by their testator or intestate, and accounted for. Every receipt for fees produced in evidence on any such motion, shall be deemed to be the act of the person subscribing it, unless he shall deny the same upon oath.

SEC. XIX. THE clerks of the said courts may obtain judgments as aforesaid for all balances now due to them from any sheriff, under sheriff, or serjeant, on account of fees heretofore put into their hands to be collected.

May, 1783. ch.
10. s. 29.

SEC. XX. ALL tobacco due, or to grow due and payable for county-levies, clerks, sheriffs, and other officers fees, (except those of surveyors,) may be discharged by transfer receipts in the following manner, that is to say: All levies shall be paid in the tobacco of some warehouse in the county where such levies are laid; and all officers fees (except as before excepted,) in the county where the person chargeable therewith lives, except such person shall have a plantation with slaves thereon in the county where the service is performed, and then all fees shall be paid in such county; but the said fees due and payable in any county where no public warehouse is established, shall be paid at some warehouse in the next adjacent

county. *Provided always*, that the receipts from the warehouses hereafter mentioned shall pass in payment of all officers fees (except as before excepted,) payable in the counties following; that is to say: In the county of Accomack, Cherry-stone's and Naswaddox; in the county of Albermarle, Page's Fredericksburg, Roylton's, Meriwether's, Rocky Ridge, Byrd's, Shockoe's, Rockett's, Nicholas's, and Henderson's; Amelia, Charlotte, Halifax, Henry, Lunenburg, Mecklenburg, Pittsylvania, and Prince Edward, at Blandford, Bolling's Point, Bollingbrooke, Davis's, Cedar Point, Boyd's, Rocky Ridge, Warwick, Osborne's, Barkdale's, Westhill, High Street-warehouse, Westbrooke, Petersburg warehouse, Bolling's warehouse, and Tabb's mill; Amherst, at Byrd's, Shockoe's, Rockett's, Rocky Ridge, Page's, Meriwether's, Crutchfield's, and Lynch's; Bedford and Campbell, at Byrd's, Shockoe's, Rocketts, Rocky Ridge, Warwick, and Lynch's in Campbell; Brunswick and Greenville, at Blandford, Bolling's-Point, Bollingbrooke, John Bolling's, Boyd's, Davis's, Cedar Point, Smithfield, Fulgham's, Low Point, Gray's Creek, Barkdale's, Westhill, High Street, Westbrooke, Petersburg warehouse, Bolling's warehouse, Tabb's mill, and Nottoway; Nansemond at Smithfield, Fulgham's, Low Point, Richard Baker's at Southquay, Portsmouth and Suffolk; Buckingham, at Byrd's, Shockoe's, Rockett's, Rocky Ridge, Warwick, Osborne's, Johnson's, Trent's, Rubsamons, and Horfeley's; Caroline, at Todd's, Aylett's, and Layton's; Culpeper, at Dixon's, Dumfries, Quantico, Acquia, Falmouth, Fredericksburg and Roylton's; Cumberland and Powhatan, at Byrds, Shockoe's, Rockett's, Rocky Ridge, Warwick, Osborne's, Johnson's, Trent's, Rubsamons, and Horfeley's; Dinwiddie, at Blandford, Boyd's, John Bolling's, Davis's, Barksdale's, West-hill, High Street, Westbrooke, Petersburg warehouse, Bolling's warehouse, and Tabb's mill; Elizabeth City, at Hampton, Essex, at Port Royal, Todd's, Mantapike, and Shepherd's; Fauquier, at Falmouth, Dixon's, Quantico, Dumfries, Acquia, M'Rae's, and Bullitts; Goochland and Fluvanna, at Byrd's, Shockoe's, Rockett's, Page's, Meriwether's, Rocky Ridge, Johnson's, Trent's, Rubsamons, and Ross's; James City, at Littlepage's, Kennon's, the Brick House, York, and College landing; King George, at Dixon's, Falmouth, and Mattox; Isle of Wight, at Kennon's, Wilkinson's, Milner's, and Suffolk; King William, at Meriwether's, Page's, and Crutchfield's; Lancaster, at Indian Creek, and Dyer's; Loudoun, at any of the warehouses in Fairfax and Prince William; Louisa and Orange, at Fredericksburg, Roylton's, Page's, Meriwether's, Byrd's, Shockoe's, Rockett's, and Crutchfield's; Norfolk, at any of the warehouses in Nansemond and Elizabeth City; Northampton, at Pitt's, Guildford, and Pungoteague; New Kent, at the Brick House, Littlepage's, and Kennon's; Northumberland, at Yeocomico and Kinsale; Prince George, at Bolling's Point, John Bolling's, Cedar Point, Bollingbrooke, Davis's, Blandford, Low Point, Gray's Creek, and Kennon's; Prince William, at Alexandria, Acquia, Colchester, and Thornton's; Fairfax, at Quantico, Dumfries, M'Rae's, and Bullitt's; Gloucester, at Deacon's and Poropotank; Powhatan, at Woodson's and Carter's ferry; Princess Anne, at any of the warehouses in Nansemond and Elizabeth City; Southampton: at any of the warehouses in Isle of Wight, at Low Point, and Nottoway warehouse; Stafford, at Boyd's Hole, Gibson's, Dumfries, Quantico, and M'Rae's; Surry, at Kennon's, Blandford, Boyd's, Davis's and Hood's; Sussex, at Blandford, Bolling's Point, Bollingbrooke, John Bolling's, Davis's, Boyd's, Cedar Point, Gray's Creek, Low Point, Smithfield, Barkdale's, Westhill, High Street, Westbrooke, Petersburg warehouse, Bolling's warehouse, and Tabb's mill; Westmoreland, at Machodack, Gibson's, and North and South Wicomico; York, at College Landing, Denbigh, and the Brick house.

SEC. XXI. ALL persons chargeable with Tobacco fees due to sheriffs, and other public officers (except clerks and surveyors,) may discharge the same either in tobacco, or specie at the rate of twelve shillings and six pence per hundred upon the gross tobacco; and all persons chargeable with tobacco fees due to surveyors, shall pay the same in specie only at the same rate.

Oct 1783.
ch. 32. s. 8.

1787, ch. 52.
s. 2.

SEC. XXII. THE judges of the Superior Courts (except the General Court) shall make such allowances from time to time to their respective officers as they shall think reasonable; taking into account the time past for which no allowance hath been made by the Assembly, which allowances when made and audited, shall be paid by the treasurer out of any public money in his hands.

ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

PROVIDED always, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

*ABILL reducing into one the several Acts for the Settlement and regulation of Ferries**

SECTION I. **B**E it enacted by the General Assembly, That ferries be constantly kept at the places hereafter mentioned, and at the rates annexed to each ferry, that is to say :

OVER THE BAY OF CHESAPEAKE.

From York, Hampton and Norfolk towns, to the land of Littleton Eyre, on Hungar's river, for a man or horse passing singly, twenty shillings.
For a man and horse, or if there be more, for each fifteen shillings.

OVER POTOWMAC AND ITS BRANCHES.

		For Man.	For Horse.
		d. s.	s. d.
1764. ch. 1.	From George Wilson Spooner's to Cedar Point, Maryland,	2 6	2 6
1748. ch. 11.	From Robert Lovell's, Westmoreland, to Maryland,	2 6	2 6
1762. ch. 8.	From William Tyler's to Cedar Point,	2 6	2 6
1748. ch. 11.	From Hoe's to Cedar Point,	2 0	2 0
1755. ch. 4.	From Laurence Washington's to Maryland, opposite,	2 6	2 6
1748. ch. 11.	From Boyd's Hole to Maryland, opposite,	2 6	2 6
1766. ch. 6.	From Cook's in Stafford, to Kennedy's in Maryland,	2 0	2 0
1757. ch. 4.	From George Brett's in Prince William, to Chamberlayne's in ditto,	1 6	1 6
1748. ch. 11.	From Triplett's land below Quantico, to Brook's in ditto,	1 6	1 6
Ib. ib.	From Hereford's in Doeg's Neck, to the lower side of Pamunkey, } in Maryland,	1 0	1 0
1748. ch. 11.	From William Clifton's to Wallis's in Maryland,	1 0	1 0
Ib. ib.	From Hugh West's to Frazier's, or Addison's in ditto	1 0	1 0
Ib. ib.	From Hunting Creek warehouse landing, to Frazier's Point, or } Addison's in ditto,	1 0	1 0
Ib. ib.	From Floyd's to Powell's,	0 6	0 6
Ib. ib.	Over Occoquan in Prince William, to Colchester,	0 3	0 3
Ib. ib.	Over Nominy in Westmoreland,	0 4	0 4
Ib. ib.	From Maton's to Rock Creek, in Maryland,	0 4	0 4
Oct. 1778. ch. 44.	From Earl Tankerville's in Loudon, to Maryland,	0 4	0 4
Ib. ib.	From Noland's in Loudon, to Arthur Nelson's land in ditto,	0 3 $\frac{3}{4}$	0 3 $\frac{3}{4}$
1755. ch. 4.	From Swearingham's, Frederick, to his land in ditto.	0 3 $\frac{3}{4}$	0 3 $\frac{3}{4}$
1761. ch. 4.	From Harper's, to his land in ditto,	0 3 $\frac{3}{4}$	0 3 $\frac{3}{4}$
1769. ch. 25.	From Foreman's, Frederick, to the opposite shore,	0 3 $\frac{3}{4}$	0 3 $\frac{3}{4}$
Ib. ib.	From Aubrey's in Loudon, to Hook's in Maryland,	0 3 $\frac{3}{4}$	0 3 $\frac{3}{4}$
1748. ch. 11.	From Watkins's, opposite Canagochego Creek, to Wade's in ditto,	0 3	0 3
Ib. ib.	From Russell's land, Shenandoah, to the fork, or over the main river,	0 3	0 3

* By the 19th chapter of Oct. session, 1778, sect. 2. the county courts are empowered, annually, to regulate the rates of ferriage. The committee submit to the assembly whether this was not designed as a temporary regulation produced by the depreciation of paper money—Under this idea they have annexed the old rates to the ferries, and if it be considered by them as a perpetual regulation, the members of the assembly from their residence in the counties, will be able with facility to correct them. They will also necessarily be informed, what ferries have been disused for a long time, and which may properly be discontinued.

May 1779. ch. 51. directs an attested copy of the rates, as established by the courts of the counties, under a penalty, to be affixed to the stern of every ferry-boat.—The propriety of adopting this will depend on the determination of the assembly, on the subject submitted in the note above.

	For Man.		For Horse.		
	s.	d.	s.	d.	
From Kerley's, or Burwell's, to the land of Landon Carter,	0	3 $\frac{3}{4}$	0	3 $\frac{3}{4}$	1748 ch. 11.
From Key's landing to William Fairfax, or his heir's land,	0	3 $\frac{3}{4}$	0	3 $\frac{3}{4}$	Ib. ib.
At Williams's Gap, from Lord Fairfax's land, to Ralph Worme- ley's land,	0	3 $\frac{3}{4}$	0	3 $\frac{3}{4}$	Ib. ib.
From Samuel Earle's, Frederick, to Lord Fairfax's,	0	3	0	3	1762 ch. 8.
From Thomas Bryan Martin's, Frederick, over the Shenandoah,	2	0	2	0	M. 1779 ch. 51
From John Turberville's at Dial's landing, over Potowmac,	0	6	0	6	1785 ch. 33.
From Ralph Humphrey's, Hampshire, over the South branch of Potowmac,	0	4	0	4	O. 1784 ch. 50.
From Thompson Mason's, deceased, Loudoun, over Potowmac,	0	6	0	6	1786 ch. 108.
From R. Parker's, Hampshire, over South branch Potowmac,	0	3 $\frac{3}{4}$	0	3 $\frac{3}{4}$	Ib. ib.
From Isaac Parsons, over the South branch of Potowmac, opposite,	0	3 $\frac{3}{4}$	0	3 $\frac{3}{4}$	Ib. ib.
From John Pankake's, Hampshire, over the South branch ditto, to Jacob Earfom's,	0	3 $\frac{3}{4}$	0	3 $\frac{3}{4}$	Ib. ib.
From B. Rankin's, over the Shenandoah, to the land of G. W. Fairfax,	0	3 $\frac{3}{4}$	0	3 $\frac{3}{4}$	Ib. ib.
From Peter Harbout's, Loudon, over Goose creek, to the land of Dr. W. Selden,	0	3	0	3	Ib. ib.
From Edward Snicker's, at Williams's Gap, over the Shenan- doah, opposite,	0	3 $\frac{3}{4}$	0	3 $\frac{3}{4}$	Ib. ib.
From Cuthbert Bullitt's, over the mouth of Quantico,	0	6	0	6	1787 ch. 27.
From J. Chenowith's, Hampshire, across Cape Capon, opposite to James Largent's,	0	4	0	4	1788 ch. 44.
From Elias Poston's, ditto, across to his land, opposite,	0	4	0	4	Ib. ib.
From C. Buck's, Frederick, across North fork of Shenandoah, mouth of Passage Creek, to the land of Isaac Hite, oppo- site,	0	3 $\frac{3}{4}$	0	3 $\frac{3}{4}$	1789 ch. 37.
From Thomas Buck's, to the lands of G. Harden and Rowley Smith,	0	3	0	3	Ib. ib.
From Luther Martin's, Hampshire, across Potowmac, at the con- fluence of the North and South branches, opposite,	0	4	0	4	Ib. ib.
From Jos. Berry's, across the Shenandoah, opposite,	0	2	0	2	1790 ch. 33.
From J. Chenowith's, Hampshire, across great Cacapon creek, opposite,	0	4	0	4	Ib. ib.
From Conrad Glazes, Hampshire, across South branch Potowmac, to his land opposite,	0	4	0	4	Ib. ib.
From Rees Prichards Hampshire, over the North fork of great Cacapon, opposite,	0	4	0	4	1790 ch. 33.
From Gustavus Scotts, whereon Hawkins Stone liveth, Stafford across Potowmac,	2	0	2	0	1791 ch. 43.
From Benjamin Edwards's, Goose Creek, Loudoun, over Potow- mac opposite,	0	4	0	4	Ib. ib.
From John Hooe's, Prince William, across Occoquan, to the old warehouse,	0	3	0	3	Ib. ib.

OVER RAPPAHANNOCK, AND ITS BRANCHES.

From Urbanna to Locust point,	0	3	0	3	1748 ch. 11.
From Whiting's to Gilbert's,	2	0	2	0	Ib. ib.
From the lands of J. Chowning, Lancaster, to Urbanna,	2	0	2	0	M 1784 ch. 9
From Urbanna to Chetwoods,	0	3	0	3	1748 ch. 11.
From the lower side of Parrot's Creek to Teague's Creek,	1	6	1	6	Ib. ib.
From Byrd's to Williams's,	1	3	1	3	Ib. ib.
Over Piscataway Creek in Essex,	0	3	0	3	Ib. ib.
Over Rappahannock Creek, Richmond County,	0	3	0	3	Ib. ib.
From the landing of Archibald Ritchie on Tappahannock to the causey on the opposite side,	1	0	1	0	1764 ch. 1.
From Fauntleroy's to the landing of Archibald Ritchie,	1	0	1	0	Ib. ib.
From Ley's land to Robinson's,	0	6	0	6	1748 ch. 11.
From Leeds Town to the causey opposite,	0	4	0	4	Ib. ch. 42.
From Tankersley's to the usual place,	0	4	0	4	Ib. ch. 11.
From the public landing at Port Royal to Gibson's warehouse landing,	0	4	0	4	
From Kay's to Skinners,	0	4	0	4	Ib. ib.
From Roy's warehouse landing to Gibson's warehouse landing,	0	4	0	4	Ib. ib.
From Taliaferro's landing to Berry's,	0	3	0	3	Ib. ib.
From Doniphan's landing to Battaile's,	0	3	0	3	1755 ch. 4.

		For Man.	For Horse.
		s. d.	s. d.
1764. ch. 1.	From Caffon's to Conway's,	0 3	0 3
1748. ch. 11.	From the Wharf at Newport to Ball's landing,	0 3	0 3
1748. ch. 11.	From Johnston's plantation, Spotsylvania, to Washington's in } King George,	0 3	0 3
Ib. ib.	From Fredericksburg warehouse landing to Hunter's landing,	0 3	0 3
1787. ch. 27.	From Henry Fitzhugh's, Fredericksburg, to the land of William } Fitzhugh opposite,	0 3	0 3
1748. ch. 11.	From Falmouth to the land of Francis Thornton,	0 3	0 3
Oct. 1779. ch. 35.	From the lands of Edward West, Stafford, to those of Simon Mil- } ler Culpeper,	1 0	1 0
Ib. ib.	From the lands of Gawin Lawson, Stafford, to Fielding Lewis's } land, Spotsylvania,	1 6	1 6
Oct. 1776. ch. 32.	From Port Royal in Caroline, to the lands of Francis Conway, } vested in James Bowie, junr.	0 3 $\frac{3}{4}$	0 3 $\frac{3}{4}$
Oct. 1780. ch. 18.	From the lands of Landon Carter, Culpepper a cross at Nor- } man's ford,		
	From Francis Thornton's lands in Spotsylvania, to the town of } Falmouth opposite, across his bridge,	0 3	0 3

ON PIANKATANK RIVER.

		For Man.	For Horse.
		s. d.	s. d.
1748. ch. 11.	From Seaton's to the opposite shore,	0 6	0 6
Ib. ib.	From Turk's to the opposite shore,	0 3 $\frac{3}{4}$	0 3 $\frac{3}{4}$

ON YORK RIVER AND ITS BRANCHES.

		For Man.	For Horse.
		s. d.	s. d.
1748 ch. 11	From York Town to Gloucester Town,	0 7 $\frac{1}{2}$	0 7 $\frac{1}{2}$
Ib. ib.	From Cappahosick to Scimino,	1 3	1 3 $\frac{1}{2}$
Ib. ib.	From the brick house to Dudley's,	1 0	0 10
Ib. ib.	From West point to Dudley's,	0 6	0 6
Oct. 1780. c. 18	From Foy's, in Gloucester, to Scimino over York River,	1 3	1 3
1764. ch. 3.	From Frazier's to the Causey opposite,	0 6	0 6
1761. ch. 4.	From Mantipike on G. Brooke's land to the Causey on Wil- } liam Frazier's land,	0 6	0 6
1748. ch. 11.	From Waller's to Walkerton,	0 3 $\frac{3}{4}$	0 3 $\frac{3}{4}$
Ib. ib.	From Brick House to West-point,	0 9	0 9
Ib. ib.	From Sweet-hall to Claiborne Gooch's,	0 6	0 6
	From the land of John Watkins, New Kent, to Thomas Clai- } borne's land King William,	0 6	0 6
1748. ch. 11.	From Chamberlayne's to Williams's,	0 6	0 6
Ib. ib.	From the land of George Webb to the opposite landing,	0 6	0 6
Ib. ib.	From Blackwell's to King's,	0 3	0 3
Ib. ib.	From Taylor's land to Nelson's,	0 3	0 3
1786. ch. 108.	From Philip Aylett's at his Warehouse across Mattaponi opposite,	0 3	0 3
	From Dabney's to Hanover town,	0 3	0 3

ON JAMES RIVER AND ITS BRANCHES.

		For Man.	For Horse.
		s. d.	s. d.
1748. ch. 11.	From Hampton to Sewell's point,	3 0	3 0
Ib. ib.	To Brook's Point,	0 3	0 3
Ib. ib.	To Norfolk or Nansemond Town,	7 6	7 6
Ib. ib.	Or if more than single man and horse,	5 0	5 0
Ib. ib.	From Mulberry Point in Warwick to Cocket's in Isle of Wight,	1 3	1 3
Ib. ib.	From Norfolk Town to Crawford's or Sawyer's point,	0 6	0 6
Ib. ib.	From Crawford's to Powder point,	0 4	0 4
Ib. ib.	From Hodsdon's over Pagan Creek to Smithfield,	0 4	0 4
Ib. ib.	From Charles Fulgham's to Smithfield,	0 6	0 6
Ib. ib.	From Cockfield's point to Robert Peale's near Sleepy Hole,	0 6	0 6
Ib. ib.	From Jeremiah Godwin's over the Western Branch to James Benn's,	0 4	0 4
Ib. ib.	From Benjamin Bascomb's over Bennet's Creek to James Buxton's,	0 4	0 4
1761. ch. 4.	From John Reid's over the Western Branch to Jeremiah Godwin's,	0 3	0 3
1748. ch. 11.	From the land of Lemuel Reddick in Suffolk, to Jordan's,	0 4	0 4

	For Man.		For Horse.		
	s.	d.	s.	d.	
From Hog Island in Surry to Higgeson's landing, so long as the ferry keeper shall keep up the bridge over Hog Island Creek at his own charge,	1	3	1	3	1748 ch. 11
From James Town to Swan's point, and <i>vice versa</i> ,	1	3	1	3	1769. ch. 25.
From Cobham to James town, under the regulation of Trustees to let the ferry and superintend the boats,	1	3	1	3	1772. ch. 27.
On Chickahominy, at the usual place,	0	6	0	6	1748. ch. 11.
From Coles's to Williams's,	0	3 $\frac{3}{4}$	0	3 $\frac{3}{4}$	Ib. ib.
From Deloney's to Edloe's,	0	7 $\frac{1}{2}$	0	7 $\frac{1}{2}$	1753. ch. 4.
From Westover to Maycox, or Coggin's point,	0	7 $\frac{1}{2}$	0	7 $\frac{1}{2}$	1748. ch. 11.
From Bermuda-Hundred to Shirley,	0	6	0	6	Ib. ib.
From Hood's in Prince-George to Minge's landing in Wyanoke,	0	7 $\frac{1}{2}$	0	7 $\frac{1}{2}$	Ib. ib.
From the land of Thomas Williamson, Southampton, across Blackwater, to the land of George Fearn,	0	6	0	6	Oct. 1779. c. 51.
From the land of Elias Herring, Southampton, to the land of Hancock Batret,	0	6	0	6	Ib. ib.
From the land of Thomas Pierce, Smithfield, across Pagan creek to the land of William Hodden,	1	0	1	0	Ib. ib.
From the land of William Black, Chesterfield, over James river, to Rocket's,	0	4	4	0	N. 1781. ch. 16.
From the land of David Ross, Bedford, across James river at the mouth of Archer's creek, to the land of R. Bolling,	0	3	0	3	Oct. 1780. c. 18.
From Kennon's on Appamattox river to Maye's,	0	3 $\frac{3}{4}$	0	3 $\frac{3}{4}$	1748. ch. 11.
From William Anderson's, Botetourt, over James river to William Crowe's shore,	0	3	0	3	1785. ch. 33.
From the land of William Pride, over Perrie's Stile creek to the land of Peter Baugh,	0	3	0	3	1748. ch. 11.
From the land of Henry Trent, Amherst, over the Fluvanna to the land of Nicholas Davies,	0	3	0	3	Oct. 1776. c. 32.
From Nicholas Lewis's, Albemarle, across the Rivanna,	0	3	0	3	1785. ch. 33.
From Charles Woodson's in Henrico to Tarlton Woodson's, Chesterfield,	0	4	0	4	1753. ch. 4.
From Bolling's point over Appamattox river,	0	2	0	2	1748. ch. 11.
From the lands of Henry Batte, Henrico, to the Glebe land, Verina,	0	3 $\frac{3}{4}$	0	3 $\frac{3}{4}$	Ib. ib.
From Charles Ellis's to Daniel Weldon's,	0	3	0	3	1753. ch. 4.
From the Warehouse landing at Warwick to the land of Moseley,	0	3	0	3	1748. ch. 11.
From the land of Patrick Coutts, deceased, in Richmond town, to Manchester town,	0	4	0	4	
From the Upper landing in Beverly town, to the land of Britton,	0	3	0	3	
From the land of Stephen Woodson to the Manacon town,	0	3	0	3	1748. ch. 11.
From the land of Bennett Goode to the land of Col. John Fleming's heirs,	0	3	0	3	Ib. ib.
From the lands of Tucker Woodson to the land of Paul Micheaux,	0	3	0	3	Ib. ib.
From the land of Richard Moseley to the land of Tarlton Fleming's heirs,	0	3	0	3	Ib. ib.
From the land of John Woodson, below the mouth of Willis's creek, to his lands on the opposite side of the river,	0	3	0	3	
From the point of the fork of the Fluvanna and Rivanna rivers across the Fluvanna to the lands of Philip Mayo,	0	3	0	3	Oct. 1776. ch. 32.
From the land of Cornelius Brown in Montgomery, over New river opposite,	0	3	0	3	1791. ch. 43.
From the point of the fork of the Rivanna and Fluvanna rivers, across the Rivanna to the lands of Samuel Martin,	0	2	0	2	Oct. 1776. ch. 32.
From the said lands of Samuel Martin to the lands of Philip Mayo,	0	3	0	3	Ib. ib.
From the lands of John Harvie across the Rivanna to the lands of Martin Key,	0	3	0	3	
From the lands of William Cannon across the Fluvanna to the lands of Walter King,	0	3	0	3	Oct. 1776. ch. 32.
From John Lynch's, Bedford county, across the Fluvanna,	0	0	0	0	N. 1781. c. 16.
From the land of John Nicholas, over Slate river,	0	3	0	3	M. 1782. c. 20.
From the lands of Samuel Pepper, at Buffalo pond, Montgomery, over New river, opposite,	0	3	0	3	1769. ch. 25.
From the land of John Scott, over the Fluvanna, to the lands of Randolph Jefferson,	0	3	0	3	1791. ch. 43.
From the land of William Howard, over Rockfish river, to his lands opposite,	0	3	0	3	May 1777, ch. 30.
From ditto, over the Fluvanna, to Thomas Anderson's landing, and from said Anderson's to Howard's,	0	3	0	3	Ib. Ib.

		For Man.	For Horfe.
		<i>f. d.</i>	<i>f. d.</i>
1753. ch. 4.	From the land of G. Stovall, over the Fluvanna, to his land opposite,	0 3	0 3
1772. ch. 27.	From the land of William Crow, to the land of Andrew Boyd, Botetourt, over James river,	0 2	0 2
1761 ch. 4	From the land of John Buchanan's heirs, to his lands opposite,	0 3	0 3
1748. ch. 11.	From Branch's, on James river, to the shore opposite,	0 3	0 3
Ib. ib.	From the land of Jacob Micheaux, to the land of Thomas Atkins,	0 3	0 3
1762. ch. 8	From the land of William Ingles, over New river, to the opposite shore,	0 3	0 3
1786 ch. 108	From the land of John Anderson, over Greenbrier river, to the opposite shore,	0 3 $\frac{3}{4}$	0 3 $\frac{3}{4}$
Oct. 1780. c. 18 & 1786 ch. 108	From the land of Thomas Batte, the younger, Chesterfield county, to Broadway,	0 6	0 6
1789. ch. 37	From the land of Wilson Cary Nicholas, across the Fluvanna, to the lands of John Hardy,	0 3	0 3
Ib. Ib.	From the land of John Harper, Mecklenburg, across the Meherrin, to his land opposite,	0 2	0 2
1787 ch. 27	From the land of Charles Lynch, at the Lead-Mines, Montgomery, over New river,	0 3	0 3
Oct. 1784 c. 50	From the lands of Henry Martin, junior, Fluvanna, over the North fork of James river,	0 4	0 4
M. 1777. c. 30	From the land of George Watkins, Halifax, to the land of John Murphey,	0 2	0 2
1790. ch. 33	From the land of John Grymes, deceased, over the west branch of Elizabeth river, to the land of M. Warren, opposite,	0 4	0 4
Ib. ch. 35	From the land of William Gee, Brunswick, across Meherrin river, to his land opposite,	0 2	0 2
1772 ch. 27	From Cobham on Gray's creek, Surry, to James town,	0 7 $\frac{1}{2}$	0 7 $\frac{1}{2}$
1785. c. 105.	From Richmond to Manchester, over Mayo's bridge,	0 4	0 4

OVER NOTTOWAY RIVER.

1748 ch. 11	From Thomas Drew's land to Doct. Browne's,	0 3	0 3
Ib. Ib.	From Bolton's land to Simmons's land,	0 3	0 3
Oct. 1778 c. 44	Over the toll bridge in Southampton,	0 6	0 6

ON ROANOKE RIVER AND ITS BRANCHES.

1753 ch. 4.	From Jefferson's land, Mecklenburg, to the opposite shore,	0 4	0 4
Ma. 1777. c. 30	From the land of John Dix, Pittsylvania, across the Dan river, to his land opposite,	0 3	0 3
	From Anderson's land to Taylor's land,	0 3	0 3
M. 1779. ch. 51.	From the land of James Wilkin's, Mecklenburg, across the Roanoke, to Robert Muerford's land,	0 2	0 2
Oct. 1783. c. 24	From the land of Sir Peyton Skipwith, on the north side, to his land on the south side, over the rivers Staunton and Dan,	0 3	0 3
	From Wagstaff's land to Palmer's land,	0 3	0 3
1761. ch. 4	From Samuel Jones's land to Frederick Jones's land,	0 3	0 3
1762. ch. 8	From Fox's land to Blanton's land,	0 3	0 3
Ib. Ib.	From Harwood's land to Royster's land,	0 3	0 3
1764. ch. 1.	From William Black's land to the opposite shore,	0 4	0 4
1753. ch. 4	From Hunt's land to Abney's land,	0 4	0 4
1772 ch. 27.	From the land of Edward Booker, Halifax, to the land of John Fuqua, Charlotte,	0 3	0 3
	From Blanks's land to Bruas's ford,	0 3	0 3
1761 ch. 4	From Cobbs's land to the opposite shore,	0 3	0 3
Ib. Ib.	From James Stewart's lands to Thomas Stewart's lands,	0 3	0 3
1762 ch. 8	From Barksdale's land to James Hunt's land,	0 3	0 3
1769 ch. 25	From Simm's land in Halifax, to Randolph's land, across Staunton river,	0 3	0 3
1790 ch. 33	From the land of Edward Mitchel, Mecklenburg, across the Roanoke, to the land of Christopher Haskins, and from Haskins's to Mitchel's,	0 3	0 3
1789 ch. 37	From John Flin's across Staunton river, to Thomas Hoard's opposite,	0 3	0 3
1769 ch. 25	From Cargill's in Charlotte, to Foushee's land, Halifax, over Staunton river,	0 3	0 8

	For Man. For Horfe.		
	<i>f. d.</i>	<i>f. d.</i>	
From the lands of John Owens, Pittsylvania, over the Dan, to } Sylvester Adams's land,	0 6	0 6	Oc. 1778. c. 44.
From the land of Margaret Boyd, over Dan, to her land oppposite,	0 3	3 0	
From the land of Col. Nathaniel Terry, to Fuqua's,	0 3	0 3	
From Dix's to Green's,	0 3	0 3	1766. ch. 6.
From Harman Miller's, Halifax, to Legrand's, over Dan river,	0 3	0 3	1769. ch. 25.
From Jones's, in Halifax, to Selden's opposite, across the Dan,	0 3	0 3	Ib. Ib.
From David Brandon's, over Dan, to the land of John Lawson,	0 3	0 3	Oc. 1776 c. 32
From John Boyd's, over Dan, to the land of Patrick Boyd,	0 3	0 3	Ib. ib.
From the land of Joseph Ecolls, Halifax, across Staunton river, } opposite,	0 3	0 3	1787. ch. 27.
From Wade's, over Staunton, to the opposite shore,	0 3	0 3	1753. ch. 4.
From John Ward's, over Staunton, Bedford, to his land opposite,	0 6	0 6	O. 1778 ch. 44
From John Canefax's, Campbell, across Staunton, to Ward's, } opposite,	0 3	0 3	1790. ch. 33.
From J. Harper's, across the Meherrin, over his bridge,	0 2	0 2	1789 ch. 37

FERRIES ON THE OHIO RIVER AND ITS BRANCHES.

	For Man. For Horfe.		
	<i>s. d.</i>	<i>s. d.</i>	
From the lands of Van Swearingen, Ohio county, across the Ohio,	0 3	0 3	1788. ch. 62.
From the land of David Chambers, Ohio county, across the } Ohio, opposite,	0 6	0 6	Ib. ch. 44.
From the land of George Cox, Ohio county, across Ohio, opposite,	0 6	0 6	Ib. ch. 62.
From the land of Absalom Wills, Ohio county, across the Ohio, } opposite,	0 6	0 6	Ib. ib.
From the land of Reason Pomfrey, Ohio county, across the Ohio, } opposite,	0 6	0 6	Ib. ib.
From the land of Jonas Minser, Ohio county, across the Ohio, } opposite,	0 6	0 6	Ib. ib.
From the lands of Jesse Martin, across Monongahela, to the lands } of James Hord, on the opposite shore,	0 3	0 3	1787. ch. 27.
From the land of Jesse Martin, across Monongahela, to the shore } of David Scott,	0 3	0 3	Ib. ib.
From the lands of James Cleland, Monongalia, across Cheat river,	0 3	0 3	Ib. ib.
From the lands of Andrew Ramsay, Monongalia, across to Willi- } am Morgan's, and from Morgan's to Ramsay's, the same,	0 3	0 3	Ib. ib.
From Josiah Prickett's, Monongalia, across the Monongahela, } opposite,	0 3	0 3	1789. ch. 37.
From Jacob Boufman's, over the Monongahela, to Pittsburg,	0 4 $\frac{1}{2}$	0 4 $\frac{1}{2}$	Oc. 1776 c. 32
From Robert Wood's, Ohio, across the Ohio, opposite,	0 6	0 6	1787. ch. 27.
From the land of John Henderson, Ohio, across the Ohio, opposite,	0 6	0 6	Ib. ib.
From the lands of Isaac Williams, Harrison county, across the } Ohio, above and below the mouth of the Muskingham,	0 6	0 6	1789. ch. 37.
From the lands of Thomas Evans, across the Monongahela, at } the mouth of Decker's creek, opposite,	0 3	0 3	Ib. ib.
From the lands of John Pettyjohn, Monongalia, across Tyger } Valley river,	0 3	0 3	Ib. ib.
From the lands of Andrew Jee, over Cheat river, to Jacob } Scott's shore,	0 3	0 3	Ib. ib.
From the lands of Thomas Butler, over Cheat River, to his land } opposite,	0 3	0 3	Ib. ib.
From the land of Samuel Morton, Monongalia, across Big Sandy } creek, to the land of John Conner, sen. opposite,	0 3	0 3	1789. ch. 37.
From the land of George Jackson, Harrison county, over Elk } creek, opposite,	0 2	0 2	1786. ch. 108.
From the land of John Wickwire, Harrison county, over Tyger } Valley River,	0 3	0 3	Ib. ib.
From the lands of John Jones, Ohio county, across the Ohio, } opposite,	0 6	0 6	1788. ch. 62.
From the lands of David Scott, across Monongahela River, op- } posite,	0 3	0 3	1790. ch. 33.
From the lands of Charles Prather, Ohio, across the mouth of } Buffaloe creek, to the opposite shore,	0 2	0 2	Ib. ib.
From the lands of Charles Prather, Ohio, across the Ohio, to } the opposite shore,	0 6	0 6	Ib. ib.
From the lands of Edward Duling, deceased, Ohio county, over } Ohio River, opposite,	0 4 $\frac{1}{2}$	0 4 $\frac{1}{2}$	1791. ch. 47.

		For Man.	For Horse.
		s. d.	s. d.
1791. ch. 43.	From the lands of Edward Duling, across the mouth of Fishing creek, to the land of Robert Woods,	0 2	0 2
Ib. ib.	From the lands of Robert Woods, Ohio, across the Ohio, opposite,	0 4½	0 4½
Ib. ib.	From the lands of George Hollingbough, Monongalia, across Monongahela, to the land of Asay Holl,	0 3	0 3
Ib. ib.	From the lands of Thomas Lewis, Kanawha county, across Ohio River, to the land of Isaac Greyham, opposite,	0 4½	0 4½
Ib. ib.	From the lands of Thomas Lewis, across the Kanawha River, to the land of Robert Henderson, opposite,	0 4	0 4
Ib. ib.	From the lands of Dudley Evans, Monongalia, over Monongahela River, to the lands of George Wilson,	0 3	0 3
Ib. ib.	From the lands of John Collins, Monongalia, over Monongahela, at the mouth of Robinson's run, opposite,	0 3	0 3
1791. ch. 42.	From the lands of James Caldwell, Ohio county, across the mouth of Wheeling creek, to the lands of Ebenezer Zane,	0 3	0 3
1790. ch. 33.	From the lands of Hezekiah Davis, Harrison county, over West-fork, of the Monongahela, to William Barkley's, opposite,	0 3	0 3
Ib. ib.	From the lands of Edward Jackson, Randolph county, across Buchanan River, opposite.	0 3	0 3

SEC. II. THE rates of ferries kept opposite to those abovementioned, shall be governed by the same rates and rules.

1748. ch. 11. SEC. III. THE transportation of the following things shall be at the rates following: For every coach, waggon, chariot, and the driver the same as for six horses. For every four wheeled chaise, phaeton, and driver the same as for four horses. For every two wheeled riding carriage, the same as for two horses. For every hoghead of tobacco, the same as for one horse. For every head of neat cattle, the same as for one horse. For every sheep, goat or lamb, one fifth part of the ferriage for one horse.

SEC. IV. IF any ferry-keeper shall demand and take from any person a greater sum for the ferriage than is allowed by this act, such offender shall forfeit to the person so over charged, the ferriage demanded and received, and ten shillings for every such offence; recoverable before any justice of the peace of the county.

Ib. ib. s. 4. SEC. V. THE court of every county wherein a ferry is, or shall be appointed, shall have, and is hereby declared to have authority of ordering and directing what boat or boats, and the number of hands, which shall be kept at each ferry respectively; and the owner of the land whereon any such ferry is, if he hath not already given bond and security, shall, within six months from the commencement of this act, give bond with one surety, in the court of the county wherein such ferry is, in the penalty of twenty pounds, with condition that he will duly keep such ferry, or cause the same to be kept according to law, and will give immediate passage to all public messengers and expresses, when required from time to time. And in case any such person shall neglect or refuse to give such bond, or to cause the same to be given on his behalf, he shall forfeit and pay forty shillings for every month's refusal or neglect to the governor for the time being, and his successors, for the better support of the contingent charges of government; recoverable with costs in any court of record, where the same shall be cognizable.

SEC. VI. ALL expresses sent on public service by a member of the council, or a commander in chief, colonel, lieutenant-colonel, or major, to the governor for the time being, or the commanding officer of the militia in the next county, to give intelligence of the approach of an enemy, shall be accounted public messengers and expresses, and ferry free, within the condition and meaning of the bond aforesaid, in case the dispatch carried by such express, be endorsed "on public service," and signed on the superscription by the person sending the same.

SEC. VII. AND for encouragement of ferry-keepers, and in consideration 1748. ch. 11.
of setting over public messengers, and the persons exempted by this act, *Be it fur-* s. 7.
ther enacted, That all the men attending the said ferries be free of county levies,
and from all other public services of musters, constables, clearing highways, im-
pressment, and other things of like nature; and that keepers of ferries shall not be
chargeable with any fee for giving bond. And if the county court shall find
it requisite or useful that an ordinary be kept at any ferry, they may license such
ferry-keeper to keep ordinary, without any fee for the license, or obtaining the
same, notwithstanding there be a sufficient number of other ordinaries in the same
county; *Provided always*, That every ferry-keeper so licensed to keep ordinary,
shall give bond and security, and be liable to the same penalties as other ordinary
keepers. And if any other person whatsoever shall, for reward, set any person or
persons over any river or creek, whereon public ferries are by this act appointed, Oct. 1783. ch.
he or she so offending, shall forfeit and pay five pounds current money for every 27. s. 2.
such offence, one moiety to the ferry-keeper, nearest the place where such offence
shall be committed, the other moiety to the informer; and if such ferry-keeper in-
forms, he shall have the whole penalty; to be recovered with costs.

SEC. VIII. IT shall be lawful for the court of the county of Norfolk, to let 1787. ch. 27.
annually to the highest bidder, the ferries across Elizabeth river and the branches
thereof, taking bond and good security for due payment of the money; and to ap-
ply the same as it may be received, towards lessening the county levy.

SEC. IX. WHERE there is no ferry corresponding to one appointed by this 1748. ch. 11.
act, it shall be lawful for the court of the county to constitute an opposite ferry,
with the same rates. And the courts are empowered to appoint ferries over such
rivers and creeks in their respective counties, as shall be deemed convenient and
necessary.

SEC. X. ALL ferries heretofore established, and which have been wholly dis- 1791. ch. 23.
used and unfrequented for the space of two years, shall be, and the same are hereby s. 1.
discontinued, unless the persons entitled to keep the same, shall within twelve
months after the passage of this act, procure all necessary boats and ferrymen for
the transportation of passengers at their respective ferries.

SEC. XI. ALL ferries now established, and which may be hereafter disused Ib. ib. s. 2.
and unfrequented for the space of two years, shall be likewise discontinued, unless
necessary boats and ferrymen are prepared for the same, within the space of six
months, after the expiration of the said two years.

SEC. XII. AND all ferries which may be hereafter established, and which shall Ib. ib. s. 3.
not be furnished with necessary boats and ferrymen, within the space of six months
after the establishment thereof; or shall at any time thereafter, be wholly disused
and unfrequented for the space of two years, shall be, and the same are hereby dis-
continued.

SEC. XIII. AND it shall be lawful for the court of the county in which such Ib. ib. s. 4.
ferry or ferries shall be, on complaint to them made, to summon the proprietor or
proprietors of the same, to shew cause why it shall not be discontinued, and to de-
cide according to the testimony adduced.

SEC. XIV. IT shall and may be lawful for any keeper of a ferry, to take into 1769. ch. 26.
his boat or boats, any passenger or passengers, carriages, horses or cattle of any kind
whatsoever on either side, to convey them over, and to receive the ferriage for
the same; any law, usage, or custom to the contrary notwithstanding.

ALL and every other act and acts, clause and clauses of acts heretofore made, for, or concerning any matter or thing within the purview of this act, shall be, and are hereby repealed.

A BILL reducing into one the several Acts for regulating the Inspection of Flour and Bread.

1787. ch. 30. SECTION I. **W**HEREAS the laws heretofore made for the inspection of flour, have been found defective, and it has become necessary to adopt some regulations for the prevention of frauds in the exportation of bread :

1b. ib.

SEC. II. *BE it therefore enacted by the General Assembly,* That one inspector of flour shall be appointed at each of the following places, to wit : Alexandria, Fredericksburg, Richmond, Petersburg, West-Point, Newcastle, York, Falmouth, Port-Royal, Hobb's-Hole, Colchester, Dumfries, Manchester, Osborne's, Pocohuntas, Nomony, Broadway, Low Point in Surry, Suffolk, Hampton, Southquay, Norfolk, Morgan's Town, Smithfield, Fort Wheeling, Lynchburg, Hanover Town, and Portsmouth. The courts of the several counties in which the places aforesaid are situated, shall at their courts, held in the months of August and September in every year, nominate and appoint a person of good repute, and who is a skilful judge of the quality of flour, to be inspector of flour at each of the places aforesaid. In case of the death of any person so appointed, or his refusal or neglect to act, the justices of the said counties respectively, or any three of them, shall as soon as conveniently may be thereafter, meet together and appoint some other person in the room of the one so dead, or refusing, or neglecting to act, who shall execute the duties of his office, until the next court held for the county, where such vacancy may have happened ; and at such court the justices shall appoint in manner before directed, some person to be inspector of flour for the residue of the year. If any of the said courts shall neglect to appoint such inspector, at the time directed by this act, the governor with the advice of the council, may supply such vacancy ; and the person so appointed, having taken the oath herein after mentioned, before a justice of the peace, shall continue in office during the same time, and have the same power and authority as if he had been appointed by the court of the county. All bolted wheat flour, and every cask thereof, brought to any of the places before mentioned for exportation, shall be made by the miller or manufacturer thereof, merchantable and of due fineness, and without any mixture of coarser flour, or the flour of any other grain than wheat. All bread and flour casks which shall be brought to any of the places before mentioned for exportation, shall be well made, of good seasoned materials, tightened with ten hoops, sufficiently nailed with four nails in each chine hoop, and three nails in each upper bilge hoop ; and the flour barrels shall be of the following dimensions, to wit : the staves shall be twenty-seven inches in length, and the heads seventeen inches and a half in diameter. Every miller of flour and baker of bread for exportation, shall provide and keep a distinguishable brand-mark, with which he shall brand every cask of flour and bread, and mark thereon the tare and nett weight, before the same shall be removed from the place where it was bolted or baked, under the penalty of two shillings and six-pence for every barrel of flour not hooped and nailed as aforesaid ; and for every cask of flour or bread so removed, and not branded and marked as aforesaid, to be recovered from such miller or baker who shall neglect to comply with the directions of this act, or from the person who brings such flour or bread to any of the places aforesaid for sale ; and in case the penalty aforesaid shall be recovered from the person bringing the said bread or flour for sale, such person shall and may recover the same from the miller, baker, or bolter, from whom such flour or bread was purchased or received ; provided it appears that he gave notice to such miller, baker, or bolter, that he intended to carry the same to one of the places before mentioned for sale or exportation, and that he requested such baker, miller, or bolter, to secure and brand the said barrels. Every miller and bolter shall put into cask the full quantity of one hundred and ninety-six pounds of flour ; and if any one of them shall put a smaller quantity of flour into any cask than is directed by this act, he shall forfeit for the deficiency of every pound under three, six-pence, and for the deficiency more than three, one shilling. All casks wherein bread shall be packed, shall be weighed, and the tare marked thereon ; and if any person

shall put a false or wrong tare on any cask of bread, to the disadvantage of the purchaser, he or she shall forfeit for every cask so falsely tared, five shillings; and the inspector, or his assistants, upon suspicion, or at the request of the purchasers, shall, and he is hereby required to unpack any cask of flour or bread; and if there shall be a lesser quantity of flour than is above directed, or if the cask wherein bread is packed, shall be found to weigh more than is marked thereon, the miller, baker, or bolter, (as the case may be,) shall pay the charges of unpacking and repacking, over and above the penalties aforesaid; but otherwise the said charges shall be paid by the inspector, or by the purchaser, if the trial be made at his request. Every occupier of a mill who shall grind and manufacture wheat into flour, and pack the same in barrels, shall make out, subscribe, and deliver to the person authorised and empowered to carry away the said flower, a manifest of the gross, tare, and nett weight of such flour; and if he shall neglect, or refuse so to do, he shall forfeit and pay five shillings for every barrel of flour delivered without such manifest. Every baker of bread for exportation, shall deliver with the said bread a manifest of the contents thereof, with his brand mark thereon, and his name subscribed thereto, under the penalty of forty shillings for every manifest delivered contrary thereto; and if any cask of bread be found lighter upon trial, than is set down in the manifest, he shall forfeit for every pound deficient, in the same proportion, as is heretofore directed as to flour. Any cask of flour brought to any of the places before mentioned, to be from thence laden or shipped for exportation, shall be submitted to the view and examination of the inspectors at such place, who shall inspect and try the same, by boring through the head with an instrument not exceeding half an inch in diameter, to be by him provided for that purpose; and if he shall judge that the same is well packed, and merchantable according to the directions of this act, he shall plug up the hole and brand the cask in the quarter, with the name of the place at which he is inspector, with a public brand-mark to be provided for that purpose; and shall also brand and mark the degree of fineness which he shall on inspection determine the said flour to be of, which degree shall be distinguished as follows, to wit: superfine, fine, middling, ship-stuff; for which trouble the inspector shall have, and receive of the owner of such flour, the sum of two-pence, and no more, for each cask. No inspector shall pass any flour which shall prove on examination to be unmerchantable, according to the true intent and meaning of this act; but shall cause the same to be marked on the bilge, with the word "condemned," or secure it for a further examination if required; which examination the owner shall procure to be made within twenty days, and the inspector shall and may demand and receive from the owner or owners thereof, the same rate and prices, as if the same had been passed. When any person shall think himself aggrieved by the judgment, or want of skill in an inspector, in rejecting flour as unmerchantable; it shall be lawful for such person to apply to a justice of the peace, who shall, at the charge of the complainant, issue a warrant directed to three indifferent persons, well skilled in the manufacture of flour, to view and examine the same; which said three persons having taken the same oath or affirmation, as by this act is herein after directed to be taken by every inspector of flour, shall carefully view and examine the same; and if they, or any two of them, shall pass and declare the same to be merchantable, in such case the inspector shall erase out the word "condemned," and put such brand on the said flour, as they, or any two of them shall direct, and shall repay to the complainant his costs; but if on such review, the judgment of the inspector shall be confirmed, in such case the owner of the flour shall pay the costs of such review; and the said inspector for his trouble, shall and may receive two-pence for each cask by him received, in case his judgment shall be confirmed. It shall not be lawful for any person, to export or lade on board of any ship or vessel for exportation, out of this state, any cask of flour marked "condemned" by an inspector; or to export, or lade on board of any ship or vessel for exportation, from any port or place within this state, any casks or barrels of flour not inspected or branded as aforesaid, on pain of forfeiting fifty shillings for every cask or barrel exported or laden on board of any ship or vessel for exportation.

SEC. III. *PROVIDED nevertheless*, that where any mill for the manufacturing of flour shall be situated on navigable water, below the falls, it shall be lawful for the owner of such mill to require the inspector of flour who resides the nearest thereto, to attend and inspect the flour manufactured by him; and the inspector or his deputy, is hereby required to inspect and brand all such flour in the same manner as if such flour had been carried to the place at which he is inspector, and the proprietor may thereupon export the same in like manner as if it had been inspected at any of the before mentioned places. Every inspector of flour, before he enters on the execution of his office, shall make oath or affirmation "That he will

“ without favor, affection, malice or partiality, carefully inspect all flour brought to him, and which he shall be required to examine ; that no flour shall be passed or branded by him without his inspecting the same ; that he will not brand, or cause to be branded, as passed, any cask or casks of flour that do not appear to him, to the best of his skill and judgment, to be sufficiently clean, sweet, and merchantable ; that he will mark on all casks of flour the degree thereof, according to the directions of this act ; that he will carefully examine the casks in which flour brought for inspection shall be contained, and that he will not pass or brand any such casks, unless they be of such size, goodness, and thickness as by this act required”. No inspector of flour shall directly or indirectly purchase any flour by him condemned, or any other flour whatsoever, other than for his own use, under the penalty of forty shillings for every barrel by him purchased. If any person shall alter the mark stamped on any cask of flour by an inspector, or shall mark or brand any cask of flour, which has not been inspected with any mark or brand, similar to or in imitation of an inspector's mark or brand, or after an inspector shall have passed any cask of flour as merchantable, shall pack into such cask any other flour, or after any cask of flour shall be branded “ condemned ” shall unpack and repack the same in other casks for exportation, such person shall forfeit and pay the sum of forty shillings for every cask. If the quantity of flour which shall be brought to any of the above mentioned places for inspection shall at any time be so great that the inspector cannot alone examine the same with sufficient dispatch ; or, if through sickness the inspector shall be incapable of discharging the duties of his office, on such occasions it shall be lawful for him to appoint one or more persons of good repute and good judges of the quality of flour to assist him in the execution of his office. Such assistants having taken the oath or affirmation prescribed by this act to be taken by an inspector, shall be authorized to inspect or brand any flour in the same manner as the inspector may do. The courts of the several counties in which the before mentioned places are situated may at any time remove from office any inspector of flour for neglect of duty, malfeasance, or corrupt practices, and may supply the vacancy occasioned thereby by appointing another inspector for the residue of the year.

1788. ch. 36.

SEC. IV. THE penalties and forfeitures imposed by this act may be recovered by the informer before a single magistrate where the penalty does not exceed twenty five shillings, and where they are over that sum but do not exceed five pounds, the same shall be recoverable by petition in the same manner, as is by law directed in case of petitions for the like sum of money ; and where the penalty incurred shall exceed the sum of five pounds, the prosecutor may sue for the same in the court of the county, or corporation where the defendant resides, or where the offence was committed, one half of which said penalties and forfeitures shall accrue to the use of the informer, and the other half to the use of the commonwealth. The prosecutor may make oath before the justice of the peace of the nature of the action, and that he verily believes the defendant hath incurred the penalty and forfeiture thereby demanded, which the clerk, upon a certificate thereof to him produced, shall endorse upon the back of the writ, and thereupon the defendant shall be ruled to give special bail.

ALL acts, or parts of acts, coming within the purview of this act shall be and are hereby repealed.

PROVIDED always, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

A BILL directing the mode of suing out and prosecuting Writs of Habeas Corpus.

May 1784,
ch. 35.

SECTION I. **B**E it enacted by the General Assembly, That whensoever a *habeas corpus* shall be served, by delivering it to the officer or other person to whom it is directed, or by leaving it at the gaol or prison in which the party suing it out is detained, unless the warrant of commitment plainly and specially express the same to have been for treason or felony ; if the charges of bringing the

prisoner, to be ascertained by the court or judge who awarded the writ, and thereon endorsed, not exceeding twelve pence *per* mile, be paid or tendered, and sufficient security to pay the charges of carrying him back in case he be remanded, and that he will not escape by the way, be given; then the officer or his deputy, within three days after such service, or if the prisoner is to be brought more than twenty miles, within so many days more as will be equal to one day for every twenty miles of such further distance, shall make return of the writ, and bring the body of the prisoner, or cause it to be brought, before the proper judge or judges, according to the command thereof; and then shall likewise certify the true causes of his detainer or imprisonment.

SEC. II. EVERY such writ shall be signed by him who awards it.

May 1784.
ch. 35.

SEC. III. AND if any person shall be or stand committed or detained as afore- Ib. ib.
said, for any crime, unless it be for treason or felony, plainly expressed in the warrant of commitment in the vacation time, the prisoner not being convicted, or in execution by legal process, or any one on his behalf, may appeal and complain to the Judge of the High Court of Chancery, or any Judge of the General Court, who, at the request of such prisoner, or other person on his behalf, attested by two witnesses present at the delivery thereof, is hereby authorized, upon view of a copy of the warrant of commitment or detainer, or otherwise upon affidavit made that such copy was desired to be given by him in whose custody the prisoner is detained, to award and grant a *habeas corpus*,* to be directed to the officer in whose custody the party committed or detained shall be, returnable immediately before the said Judge, or any other judge of one of the said courts; and upon service thereof as aforesaid, the officer or his deputy, in whose custody the party is so committed or detained, shall, within the times before respectively limited, bring the prisoner before the court or one of the judges thereof, before whom the writ is made returnable, or in case of his absence, before any other of them, with the return of the writ and the true causes of commitment and detainer; and thereupon the judge before whom the prisoner shall be brought, shall, within two days thereafter, discharge him from imprisonment, taking his recognizance with surety in any sum, according to the direction of the judge, having regard to the circumstances of the prisoner, and nature of the offence, for his appearance in the court of the district the term following, or in some other court where the offence is properly cognizable, as the case shall require; and then also certify the said writ with the return thereof, and the said recognizance into the said court where such appearance is to be made, unless it shall appear to the judge that the party so committed is detained upon a legal process, order, or warrant, out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal of any of the said judges, or some justice of the peace, for such matters or offences, for the which by the law the prisoner is not bailable.

SEC. IV. IF any person shall have wilfully neglected, by the space of two Ib. ib.
terms after his imprisonment, to pray a *habeas corpus* for his enlargement, such writ shall not be granted to him in vacation, in pursuance of this act.

SEC. V. ANY officer neglecting or refusing to make the return aforesaid, or to bring the body of the prisoner according to the command of the writ within the time aforesaid, or not delivering a true copy of the warrant of commitment and detainer, within six hours after demand thereof made to the prisoner, or person demanding it on his behalf, which copy the officer or his deputy is hereby required to deliver, shall forfeit to the prisoner, one hundred pounds; to recover which, the right of action shall not cease by the death of either or both the parties. Ib. ib.

* The Act of 1784. ch. 35. directed that writs of Habeas Corpus should be under the seal of the court. But the Act of 1788. ch. 67. s. 24. having provided, that such writs may be granted without seal, this Bill was framed so as to correspond therewith.

May 1784.
ch. 35.

SEC. VI. NO person who shall have been delivered upon a *habeas corpus*, shall afterwards be imprisoned or committed for the same offence, otherwise than by the order or process of the court wherein he shall be bound by recognizance to appear, or some other court having jurisdiction of the cause.

Ib. Ib.

Const. U. S.
Art. 4. sec. 2.

Ib. Ib.

SEC. VII. A CITIZEN of this Commonwealth committed to prison in custody of an officer for any criminal matter, shall not be removed from thence into the custody of another officer, unless it be by *habeas corpus*, or some other legal writ, or where the prisoner shall be delivered to the constable, or other inferior officer, to be carried to some common gaol, or shall be sent by warrant of an overseer of the poor to some common work-house, or shall be removed from one place to another within the same county, in order to his discharge or trial, in due course of law; or in case of sudden fire or infection, or other necessity, or where the prisoner shall be charged by affidavit with treason, felony, or other crime, alledged to be done in any other of the United States of America; in which last case he shall, on demand from the Executive authority of the state from which he fled, be sent thither in custody, by order of the General Court, or warrant of any two judges thereof in vacation time, or may be bound by recognizance with sureties before them, to appear there, whichever shall seem most proper, if the said court or judges, upon consideration of the matter, shall think he ought to be put upon his trial.

May, 1784,
ch. 35.

SEC. VIII. ANY person as aforesaid may move for and obtain his *habeas corpus*, as well out of the High Court of Chancery as out of the General Court: And if any judge of either of the said courts in the vacation time, upon view of the copy of the warrant of commitment or detainer, or upon affidavit made, that such copy was denied as aforesaid, shall refuse any writ of *habeas corpus*, by this act required to be granted, being moved for as aforesaid, such judge shall be liable to the action of the party grieved.

ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and same are hereby repealed.

A BILL reducing into one, the several Acts for improving the breed of Horses.

1785. ch. 73.
s. 1.

SECTION I. **B**E it enacted by the General Assembly, That no person shall suffer a stoned horse of the age of two years, whereof he is owner, or hath the keeping, to run at large out of the enclosed ground of the owner or keeper; and whosoever shall wilfully or negligently do so, after having been admonished to confine such horse, shall forfeit and pay five pounds, to him who will sue for it, and double that sum for any such transgression after one conviction; and, if after a second conviction, the same horse be found so running at large, it shall be lawful for the person who will take him up, to retain him to his own use.

1748 ch. 32.
s. 2.

SEC. II. IF any person being an inhabitant of this commonwealth, and not having a freehold of fifty acres of land, or possessed of, and occupying lands or tenements of the value of twenty pounds, or not being a tenant, and occupying lands or tenements for which he pays five hundred pounds of tobacco, or fifty shillings current money, or more, annual rent, shall presume to keep any stoned horse, or breeding mare, or any more than one gelding, or one spayed mare, it shall be lawful for any other person, being a freeholder or tenant, qualified according to this act, to take up and seize every gelding, mare, or colt, kept contrary to this act, and running at large; but the person taking up the same shall give notice thereof to the owner, in writing, within three days after taking, and three days at least before the next court to be held for the county wherein such owner lives: And if he or she shall not appear at the said court, and make it appear that he or she is an inhabitant of some place not within this commonwealth, or is a freeholder, occupier, or tenant, as aforesaid, every such mare, gelding, and colt, shall be for-

seized to the seizer, for his own use, and he shall have the property thereof; and if such notice be not given three days before the next court after such taking up, the owner shall not be obliged to appear till the court held next after expiration of the said three days.

SEC. III. NO overseer, not being a freeholder in the county wherein he lives, 1748. ch. 89.
nor any servant whatsoever, shall be owner of any unspayed mare, or keep any s. 3.
horse, mare, or colt, without license in writing, of his master or mistress; neither shall he keep more than one, although so licensed, upon pain of forfeiting every such horse, mare, or colt, to any person who will inform for the same; recoverable before any justice of peace of the county wherein such offence shall be committed.

ALL and every act and acts, coming within the purview of this act, shall be, and are hereby repealed.

A BILL reducing into one, the several Acts making Provision for the Restraint, Support and Maintenance of Idiots and Lunatics; and the Preservation and Management of their Estates.

SECTION I. **B**E it enacted by the General Assembly, That the present directors 1788. ch. 56.
of the hospital for the reception of persons of unsound minds, 1785. ch. 87.
and their successors, to be chosen when vacancies happen, by the governor, with the advice of the council, are hereby constituted and appointed a body politic and corporate, to have perpetual continuance, by the name of the directors of the hospital for the maintenance and cure of persons of unsound minds; and by that name may sue, and be sued, and may and shall have and use a common seal, and are enabled to take and hold any estate, real or personal, given, or to be given to the said hospital, or to themselves, for the use thereof; so as the annual revenue, or income of such donations, exceed not one thousand pounds; any law or statute to the contrary notwithstanding.

SEC. II. THE said directors shall and may so often as it may be necessary, Ib. ib. s. 2.
choose a president to continue in office until his death, resignation, or removal; and they, or any seven of them, shall from time to time ordain regulations for the government of the said hospital, and appoint a keeper or matron thereof, with nurses and guards when they shall be necessary; and provide for the accommodation, maintenance, and cure of the patients remaining, and to be received therein. By warrant to be directed to the sheriff, a justice of the peace may order to be brought before him, any person whose mind from his own observation, or the information of others, he shall suspect to be unsound, and with two other justices, who at his request, shall associate with him, shall enquire into the state of such person's mind, and the said justices shall write down as well what shall appear to themselves, as what shall be testified by witnesses, touching the supposed insanity; and if two of them adjudge the party to be such a person as ought to be confined in the hospital, and some friend will not become bound, with surety, to restrain and take proper care of him, or her, until the cause for confinement shall cease; the the said justices, or two of them, shall order the insane to be removed to the said hospital and there received; and for that end direct a warrant to the sheriff, and a mittimus to the said keeper, transmitting therewith to the latter, the examinations of the witnesses, and a relation of such facts as the said justices shall think pertinent to the subject, to be laid before the directors. The said keeper immediately after the person removed shall be delivered to him, the receipt of whom he shall acknowledge, in a writing signed by him, and delivered to the sheriff, shall inform the president thereof, who shall require his colleagues to meet as soon as may be; and at such meeting, which shall not unnecessarily be delayed, the directors, if having considered the case, they concur in opinion with the justices, shall register the insane as a patient; but they may at any time afterwards deliver him or her to a friend, becoming bound to restrain and take care of him or her, in the same manner as the justices might have done.

1788. ch. 56. SEC. III. IF upon the examination of any person charged with being a lunatic or idiot, or otherwise insane, the said court shall be of opinion, that he or she ought not to be confined, it shall be lawful for the said court, forthwith to discharge him or her.

1790. ch. 19. SEC. IV. WHEN any insane person shall be removed as aforesaid to the said hospital, the justices before whom such person was examined, shall cause a certificate of the estate of such insane person, (if any there be) and of the probable annual profits arising therefrom, to be sent to the said directors, together with the proceedings before directed, to be transmitted to them; and shall also certify such removal, and the insane's estate to the next court, to be held for the county, city, or borough, whence such removal was. On receipt of such certificate, it shall be lawful for such court, to appoint a committee, into whose hands shall be committed such insane's estate, for the safe keeping and good management thereof; which committee shall have power to sue for, and recover all debts due to, and be liable to be sued for all debts due from such insane person, in the same manner as executors to deceased persons are, or may be; and out of the profits of such insane person's estate, the said court may direct to be defrayed, the expences attending, as well the removal, as the annual support of every such person while remaining in the said hospital, to be paid to the said court of directors: *provided* that such county, city, or borough court may allow a reasonable support to the family of such insane person, (if any he hath) out of his estate, so that neither the expences attending such insane person, nor the allowance to his family, shall defeat the claims of his or her creditors. Upon the appointment of any such committee by the court as aforesaid, such court shall take bond, with good security, in a sufficient penalty, for the true and faithful performance of the trust thereby reposed in them; and in case of failure in the examining justices to perform the duties by this act enjoined, or in case of failure in any such court, to appoint committees as aforesaid, and to take such bond and security as is hereby required; the justices in either case so refusing or neglecting, shall forfeit and pay for every such refusal or neglect fifty pounds; to be prosecuted for, and recovered by the attorney general, in the name of the said court of directors, for the use of the commonwealth.

1785 ch. 87. SEC. V. IN case an infant child or ward, be suggested by the parent or guardian of such infant child or ward to be of unsound mind, the court of the county, city, or borough, wherein such person may reside, shall appoint three justices to examine into the state of his or her mind, and upon the report of the said justices, if the suggestion appears to be true, such court shall order the insane to be removed to the hospital in the manner before directed, where he or she shall be received and registered. The expence of maintaining and endeavouring to cure a registered insane, shall be paid by the public, and reimbursed out of his estate, (if any such there be;) and in case of an infant, not an orphan, shall be reimbursed by the parent, if of sufficient ability to support such infant; to be adjudged of, and certified by the court of that county where the parent resides, and may in either case be recovered by an action in the name of the directors, who shall account for what shall thus come to their hands. Accounts of expences incurred in the execution of this act, as well for repairing the hospital and other necessary incidental works and services, shall be audited and discharged in the same manner as other public accounts. The directors shall enlarge every person confined in the hospital, who shall appear to them to be perfectly cured of insanity, and give such person a certificate thereof. A person registered in the hospital, shall nevertheless, during the time of his or her confinement, be deemed an inhabitant of that county, in which was his or her legal settlement, at the time of his or her removal to the hospital.

1788. ch. 56. SEC. VI. IN case of the absence of the president of the directors, the eldest member present, may act as president *pro tempore*.

Ib. ib. SEC. VII. ANY director who shall remove to the distance of twenty miles or upwards, from the said hospital, shall be considered as having vacated his office.

SEC. VIII. Not more than two persons shall be paid as a guard for removing 1790. ch. 19.
any insane person to the said hospital, which two, shall have the same allowance s. 4.
made them for their services, as is at present allowed to guards employed in re-
moving criminals, and who shall be paid by the court of directors out of the mo-
nies appropriated for the use of the hospital.

SEC. IX. WHERE any person of unsound mind, is, or shall be seized or 1785. ch. 85.
possessed of any lands, tenements or hereditaments in trust, or by way of mortgage, s. 1.
the committee appointed for the care of such person, on the petition of one or more
of the parties interested, and after hearing them all, may execute any such deed,
or perform any other such act, as the trustee or mortgagee, if he were of sound
mind might have executed or performed. And such deed or other act shall be as
valid, except that he shall not be bound by a warranty or other covenant contained
in the deed. Such committee may also make or take a surrender of a former lease,
or take or make a new lease, as the case may require, and as it shall seem most
for the advantage of such insane person; out of whose estate, any fine that may be
advanced, and all other just expenses that may be incurred in order to obtain a new
lease, to him, shall be reimbursed, and the new lease shall not only be chargeable
with such fine and expenses, but shall remain subject to all incumbrances which
the lease surrendered would have been subject to.

SEC. X. THE lands, tenements, and chattels of all idiots and lunatics what- 1785. ch. 68.
soever, shall be kept, in like manner as is herein before directed, in the case of
such as be sent to the hospital, safely, without waste or destruction, and they and
their household shall live and be maintained competently with the profits of the same,
and the residue besides their sustentation, shall be kept for their use, to be delivered
unto them when they come to right mind; and if they die in such state their lands
and chattels shall be distributed in the manner directed by the act, intituled, "An
act to reduce into one, the several acts directing the course of descents."

ALL and every act and acts, clause and clauses of acts, concerning any mat-
ter or thing within the purview of this act, are, and shall be henceforth re-
pealed.

A BILL to regulate Impresses.

SECTION I. BE it enacted by the General Assembly, That if any officer, soldier, 1781.
commiffary, quarter master, or other person shall presume to take Nov. ch. 36.
from any citizen or citizens of this commonwealth, any part of their property by
way of impress, unless it be by warrant from the executive in case of actual inva-
sion, or by the sheriffs bringing criminals to a District Court, or in such other cases
as is or shall be expressly allowed by law, it shall be lawful for any magistrate in the
county where the offence is committed, upon information on oath, to issue his war-
rant for the immediate taking and save-keeping of such offender or offenders, till
they are delivered by due course of law; and all county-lieutenants and other offi-
cers of the militia are hereby enjoined to support the civil power in securing and
bringing such offenders to justice.

ALL and every act and acts, clause and clauses of acts, containing any thing
within the purview of this act, (except as herein after provided) shall be, and the
same are hereby repealed.

PROVIDED always, That nothing in this act contained shall be construed,
to repeal any act heretofore made, for so much thereof as may relate to any offence
committed or done before the commencement of this act.

A BILL concerning Tributary Indians.

1705. ch. 14. SECTION I. **BE** it enacted by the General Assembly, That it shall not be lawful for any Indian King or any other tributary Indians whatsoever, upon any pretence or upon any consideration, to bargain and sell, or demise to any person or persons other than to some of their own nation, or their posterity in fee, for life or for years, the lands laid out and appropriated for the use of such Indians, or any part or parcel thereof; or to bargain and sell as aforesaid any other land whatsoever now actually possessed or justly claimed and pretended to by the said Indians, or any of them, by virtue of any articles of peace made and concluded with such Indians by this commonwealth, or by the government existing previous to the establishment of this commonwealth, or by virtue of any other right and title whatsoever: and every bargain, sale, or demise, hereafter made, contrary to this act as aforesaid, shall be and is hereby declared to be null and void, to all intents, constructions, and purposes.

1b. 1b. SEC. II. IF any person or persons (other than the Indians and their posterity) shall from and after the publication of this act, presume to purchase or obtain any deed, or conveyance in fee, or any lease for years from any of the tributary Indians, of any lands, tenements, or hereditaments, laid out or appropriated, or now actually possessed, or justly claimed or pretended to, by the said Indians, or shall occupy or tend any of the said lands by permission of the said Indians or otherwise, every person so offending, and being thereof lawfully convicted in any court of record within this commonwealth, shall forfeit and pay the sum of ten shillings current money for every acre of land so purchased, leased, or occupied, and so for every year such person or persons may hold possession of such lands by virtue of such purchase or lease; one moiety of which penalty shall accrue to the commonwealth, the other moiety to the informer; to be recovered by action of debt or information in any court of record within this commonwealth.

1b. 1b. SEC. III. THE Indians tributary to this government shall be well secured and defended in their persons, goods, and properties; and whosoever shall defraud or take from them their goods, or do hurt or injury to their persons, shall make satisfaction and be punished for the same according to law, as if the Indian sufferer had been a citizen of this commonwealth.

ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

PROVIDED always, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

A BILL Declaring that Joint-Tenancy may be pleaded in Abatement.

34. Edw. 1.
ch. 1. SECTION I. **BE** it enacted and declared by the General Assembly, That in all actions real or mixed, which shall hereafter be brought for the recovery of any lands or tenements within this commonwealth, if the tenant shall plead that he holdeth the tenements in demand jointly with his wife, or any other person not named in the writ, and shew forth a deed testifying the same, and demand judgment of the writ; and thereupon issue be joined, and it be found against the truth of the plea by him in manner and form aforesaid pleaded, the plaintiff shall recover his seizin of the tenements in demand, and double damages, against the party by whom such plea shall have been pleaded; but if it be found that the matter aforesaid was truly and lawfully alledged by such defendant in his plea, the writ shall be abated.

Sec. II. *PROVIDED* always, that no such plea shall be admitted or received, in any case, unless the party offering the same shall prove the truth thereof by oath or affirmation, as the case may require.

ALL and every statute and statutes, act and acts within the purview of this act, shall be and the same are hereby repealed.

A BILL reducing into one, the several Acts concerning the Inspection of Lumber.

SECTION I. **B**E it enacted by the General Assembly, That it shall be lawful for the courts of the several counties and corporations within this commonwealth, to appoint so many inspectors of lumber within their respective limits as they shall deem necessary. 1787. ch. 18.

SEC. II. THE inspectors so to be appointed, shall, before they enter on the execution of their office, give bond and security in the sum of three hundred pounds, for the faithful performance of the duties of their office, and shall moreover take the following oath:—"I, ———, do swear that I will well and truly demean myself as inspector of lumber, without favor, affection, or partiality: SO HELP ME GOD." And the inspectors to be appointed by virtue of this act, shall in all cases be governed by the following regulations, that is to say; all drawn white oak hoghead staves, shall not be less than forty-two inches long, three inches wide, and three quarters of an inch thick when green, and five eighths of an inch if seasoned; white oak hoghead heading shall be twenty-eight, thirty, and thirty-two inches in length, with a due proportion of each length, seven eighths of an inch thick when green, and three quarters of an inch if seasoned; the staves and heading aforesaid to be without sap; red oak hoghead staves shall not be of less dimensions than the white oak aforesaid; rough hoghead staves shall be at least forty-two inches long, three and an half inches wide, and one inch thick; barrel staves shall be at least thirty-two inches long, three and an half inches wide, and three quarters of an inch thick; pipe staves shall be at least four feet and an half long, three inches wide, and one inch thick; shingles shall not be less than eighteen inches long, three and an half inches wide, and half an inch thick at the butt; and all plank, scantling, and ranging timber, shall be sound, and have square edges. 1786. ch. 98.

SEC. III. THE inspectors of lumber shall be entitled to demand and receive the following fees: For all hoghead staves and heading, one shilling and six pence per thousand; for all pipe staves, two shillings per thousand; for all barrel staves, one shilling per thousand; for all shingles, four pence per thousand; for all plank and scantling, three shillings and four pence per thousand; and for all ranging timber, two shillings and six pence per thousand, and no more; to be paid by the person offering the same for inspection: And the inspectors shall be continued in office during good behaviour. Ib. Ib.

SEC. IV. IT shall not be lawful for any master, commander, or skipper of a vessel, to receive on board his ship or vessel for exportation, any species of lumber enumerated in this act, without a note or certificate from some inspector of lumber, that the same has been duly inspected and passed; and the inspectors are hereby directed to give such note or certificate to the skipper of any small craft lading any such lumber, specifying when and where inspected, for whom, and the name of the ship or vessel exporting the same; and the collector, or other proper officer of the customs, of the district, is hereby charged and directed not to suffer any vessel to clear from his office, unless the master, commander, or skipper of such vessel, shall produce inspector's notes or certificates for all lumber which he means to clear out, and shall also make oath that he hath no lumber on board, but what is particularly entered in his manifest; any master, commander, or skipper of a Ib. Ib.

vessel, who shall receive on board his vessel for exportation, any lumber herein enumerated, without first obtaining the inspector's note or certificate for the same, shall forfeit the lumber so taken on board, and twenty pounds current money; to be recovered by action of debt, before any court of record within this commonwealth; one half of which fine shall be to the use of the person suing for the same, the other half to the use of the commonwealth.

ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

PROVIDED always, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

A BILL providing that the Exception of non-tenure of Parcel, shall not abate the whole Writ.

25 Edw. 3. ch. 16. SECTION I. **B**E it enacted and declared by the General Assembly, That by the exception of *non tenure* of parcel of any lands or tenements, for which any action or suit shall be brought, the writ shall not be abated, but for the quantity of the *non-tenure* which is alledged.

ALL and every statute and statutes, act and acts, within the purview of this act, are, and the same shall be hereby repealed.

A BILL providing a Method to help and speed poor Persons in their Suits.

1786. ch. 65. SECTION I. **W**HEREAS it is intended that indifferent justice shall be had and administered to all the citizens of this commonwealth, as well to the poor as to the rich; which poor citizens be not of ability nor power to sue according to the laws of this land for redress of injuries and wrongs to them daily done, as well concerning their persons and their inheritance as other causes: For remedy whereof, in behalf of the poor persons of this land, not able to sue for their remedy after the course of the law,

Ib. ib. SEC. II. *BE* it enacted by the General Assembly, That every poor person who shall have cause of action against any person within this commonwealth, shall have by the discretion of the court before whom he would sue, writ or writs original, and writs of subpœna, according to the nature of his cause, nothing paying for the same.

Ib. ib. SEC. III. THE said court shall direct their clerk to issue the necessary process, shall assign him counsel learned in the laws, and appoint all other officers requisite and necessary to be had for the speed of the said suit to be had and made, who shall do their duties without any reward for their counsels, help, and business in the same.

23. H. 8th. ch. 15. s. 2. SEC. IV. ALL and every such poor person or persons, being plaintiff or plaintiffs in any such action or suit so admitted by the court, shall not be compelled to pay any costs.

ALL statutes and acts, clause and clauses thereof, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

A BILL to reduce into one the several acts for regulating Pilots, and ascertaining their Fees.

SECTION I. **B**E it enacted by the General Assembly, That Paul Loyal, John Gwyn, Edward Cooper, Charles Bayleys, James Latimer, James Cunningham, Francis Ballard, John Parish, and Edward Rudd, or any three of them, be and they are hereby appointed to examine every person that shall desire to be admitted a Pilot. 1786. ch. 38.
1791. ch. 25.

SEC. II. EACH examiner before he enters on the duties of his office, shall take an oath before some court of record truly and impartially to execute the trust reposed in him. Ib. ib.

SEC. III. EVERY person applying to be examined shall produce a certificate from the county or corporation court where he resides, of his honesty and good behaviour, satisfactory proof that he hath served as an apprentice to some branch pilot, for the term of five years at the least, and that he is an inhabitant of this commonwealth; and shall moreover pay down to the examiners the sum of thirty shillings. And if upon examination such person shall appear to be of sufficient skill and ability, the said examiners shall thereupon grant such person a branch, and thenceforth he shall be reputed a lawful pilot. 1786. ch. 38.
1791. ch. 25.

SEC. IV. ALL pilots within this commonwealth shall be arranged into three distinct classes, and distinguished by the numbers, first class, second class, third class; in order to effect which, in each branch hereafter to be granted the said examiners shall distinguish to what class the pilot obtaining such branch shall belong. And if there be any pilots whose branches do not distinguish to which class the pilot holding it belongs, such pilot shall, on or before the day of next, surrender such branch to the examiners, who are hereby empowered and directed to issue a new branch to such pilot, without any additional fee or charge, distinguishing therein to what class such pilot shall in future belong. And if any pilot holding such branch shall not surrender the same by the time aforesaid, he shall forfeit his branch, and shall not be capable of exercising the office of a pilot under the same. 1791. ch. 25.

SEC. V. THOSE pilots belonging to the first class shall alone have power to take the charge and pilotage of every vessel of whatsoever burthen or description. Those belonging to the second class shall be confined to the charge and pilotage of such vessels whose draught of water does not exceed twelve feet. And those belonging to the third class shall be confined to the charge and pilotage of vessels whose draught of water shall not exceed nine feet. Ib. ib.

SEC. VI. EVERY person obtaining a branch and afterwards removing into another state, shall thereupon be disqualified, and incapable of acting as a pilot; and if any person so disqualified shall presume to act, he shall be liable to the same penalty for each offence, as is imposed by this act on such as violate the terms of their branch and respective class, to be recovered in like manner. Ib. ib.

SEC. VII. WHEN any branch pilot shall have an apprentice that, in the opinion of such branch pilot, shall be qualified to take charge and pilot a vessel, it shall and may be lawful for such branch pilot to give to his apprentice or apprentices a copy of his branch, and indorse thereon the name of the pilot boat and the Ib. ib.

port to which she belongs, distinguishing the ability of the apprentice by classes as
afore said ; after which it shall not be lawful for any branch pilot to take from such
apprentice any vessel he may have in charge.

1791. ch. 25. SEC. VIII. IN case of the misconduct or misbehaviour in any pilot in the ex-
ercise of his business, it shall be lawful for the examiners to suspend him ; and if,
upon examination before the next succeeding county court, the court shall be of
opinion that such misconduct or misbehaviour is sufficiently proved, they shall cause
the same to be certified to the examiners, and the person shall thenceforth be alto-
gether disqualified, and cease to act as a pilot.

Ib. ib. SEC. IX. EVERY pilot boat, the owner whereof hath or shall obtain a branch
in this commonwealth, shall have ten feet below the head of his foresail, and on each
side thereof the name of such boat and the port to which she belongs, painted in
letters of not less than nine inches in length.

1786. ch. 38. SEC. X. NO person whatever shall be permitted to execute the business of a
pilot, notwithstanding he may have such branch as afore said, unless he, or the com-
pany to which he belongs, shall keep one sufficient boat of eighteen feet keel at the
least, under the penalty of fifty pounds for every vessel such pilot shall undertake to
conduct, to be recovered with costs in any court of record in this commonwealth,
by the party suing for the same, to his or her own use : And if any person not hav-
ing such branch, and keeping such boat as afore said, shall presume to take upon him-
self to conduct or pilot any vessel coming from sea to or from any place or places
hereafter mentioned, every such person shall forfeit and pay the sum of fifty pounds ;
to be recovered with costs in any court within this commonwealth, by the party su-
ing for the same ; and moreover such person shall be liable for all damages occasion-
ed by his undertaking the pilotage ; to be recovered by action at common law in any
court within this commonwealth by the party injured.

Ib. Ib. SEC. XI. PROVIDED, That this act shall not be construed to extend to hin-
der any person or persons from assisting any vessel in distress, so as he or they shall
deliver up such vessel to the pilot, who shall come on board and offer to undertake
the conducting of her ; for which such assistant shall and may demand, and receive
from the said pilot, half the fees allowed for pilotage by this act.

Ib. Ib. SEC. XII. AND whereas great inconveniences have arisen from pilots entering
into combination or partnership, which has occasioned great neglect of their duty ;
for prevention whereof : *Be it enacted*, That no more than four pilots shall be in
partnership, under the penalty of one hundred pounds each ; to be recovered with
costs, by any person suing for the same.

Ib. ib. SEC. XIII. AND for the encouragement of pilots to do their duty, and that
all pilots may be induced to keep a good look-out, *Be it enacted*, That every mas-
ter of a merchant vessel coming from sea, shall be obliged to receive the first pilot
who offers below the horse-shoe, to conduct his vessel, or shall pay him full pilot-
age to the first port, and shall continue the same pilot to his port of discharge ;
and every pilot cruising or standing out to sea, shall offer his services first to the
vessel nearest land, or in most distress ; and if any pilot, not being hindered by sick-
ness, or any other lawful cause, shall refuse to go on board any vessel when required
by the master, to execute his office, such pilot or pilots in either case, shall upon
complaint and conviction before the examiners, or any three of them, forfeit to
the party injured twenty pounds, and be liable to be suspended by them for such
time as they shall think fit. Every vessel having no pilot on board, and following
another that has a pilot, shall pay such pilot half fees.

Ib. Ib. SEC. XIV. IF any pilot shall negligently or carelessly lose any vessel under his
care, and be thereof convicted by due course of law, he shall for ever after such
conviction, be incapable of acting as a pilot in this state, and shall be also liable to

pay all such damages as any person or persons shall sustain by such negligence or carelessness; to be recovered in manner before directed.

SEC. XV. AND for preventing any exorbitant demands for pilotage, *Be it 1786. ch. 38. enacted*, that the following and no greater prices shall be taken or demanded; that is to say: On James River, for all vessels coming from sea, from Cape Henry, or Lynhaven Bay, to Hampton Road, forty shillings; and for going out to sea, thirty shillings; and for each foot depth of water they draw, from Hampton Road, or Sewell's Point to Norfolk, three shillings per foot; to Sleepy Hole, or Look-out, three shillings and eight-pence per foot; to Pagan creek, three shillings per foot; to James-town, seven shillings and three-pence per foot; to Martin's Brandon, eight shillings per foot; to Flour-de-Hundred, eight shillings and six-pence per foot; to City-Point, or Bermuda Hundred, eleven shillings per foot; to Four Mile creek, thirteen shillings and three-pence per foot; to Osborne's, fifteen shillings per foot; to Warwick, sixteen shillings and ten-pence per foot; and to Richmond, eighteen shillings per foot. On York River, coming from sea, from the Capes, or Lynhaven Bay, to York-town, three pounds; and for going to sea, two pounds; from Back River, or Egg Island, to York-town, thirty shillings; from York-town, to West Point, four shillings and ten-pence per foot; to Cumberland, six shillings per foot; to the highest landings on Pamunkey River, seven shillings and six-pence per foot; to Shepherd's, five shillings and six-pence per foot; to Meredith's, Moore's, or the highest lands on Mattaponi, seven shillings and two-pence per foot. From Cape Henry, to any river on Mobjack Bay, three pounds; from the Cape to Urbanna, four pounds; and for going from Urbanna to sea, three pounds; from Urbanna to Tappahannock, five shillings per foot; to Naylor's Hole, four shillings and ten-pence per foot; to Leed's, or Micou's, seven shillings and nine-pence per foot; to Port Royal, eleven shillings per foot; to Frederickburg, thirteen shillings and nine-pence per foot. From Cape Henry to Pianketank, four pounds; from Cape Henry, to Smith's Point, on South Potomac, coming from sea, six pounds; and for going out, five pounds; from Smith's Point, to Coan or Yeocomico, three shillings per foot; to Machadock, three shillings and six-pence per foot; to upper Machadock, four shillings and ten-pence per foot; to Nangomy, six shillings per foot; to Boyd's Hole, six shillings and six-pence per foot; to Quantico, seven shillings and three-pence per foot; to Occoquan, seven shillings and nine-pence per foot; to Piscataway, nine shillings and six-pence per foot; to Alexandria, eleven shillings and four-pence per foot; to Eastern-Branch, twelve shillings per foot; and the same fees by the foot back again; and from the places aforesaid to the Capes. And where any master of a vessel shall give reasonable notice to the pilot he shall employ, of the time and place such master shall appoint for his attendance, and such pilot shall attend accordingly, he may demand and take the sum of ten shillings for every day he shall be detained by such master's not being ready to proceed according to his notice; and if any pilot shall demand, or exact any greater or other fee, he shall forfeit double the sum so demanded; recoverable before two justices, one of whom being of the quorum, with costs by the informer.

1787. ch. 86.

1786. ch. 38.

SEC. XVI. AND to the end that strangers may not be imposed on in the rates of pilotage as settled by this act, *Be it enacted*, That every pilot appointed in pursuance of this act, shall be obliged, when he is in execution of his office, to carry with him a copy thereof; and when he receives the fees for services performed on board any vessel, he shall produce the said copy to the master of the vessel, to shew that he demands no greater fee than is allowed by this act; and if any pilot shall neglect or refuse such copy as aforesaid, he shall forfeit and pay twenty pounds, to any person who shall sue for the same, to be recovered in any court within this state.

SEC. XVII. AND where any pilot has reason to believe the master of any vessel will not pay the pilotage, he may make out his account for the pilotage due him, and deliver the same to the collector, or other officer of the customs, where the master of such vessel clears out; and the said collector, or other officer of the customs, is hereby authorized to demand and receive the said pilotage, before the master shall be permitted to clear out his vessel. The collector or other officer of the customs, shall retain two and an half *per centum* for receiving money and paying the same to the pilot.

1786. ch. 38. AND for the further encouragement of pilots to do their duty, *Be it enacted*, That every branch pilot shall be, and he is hereby exempted from militia duty, during the time he shall act as pilot.

ib. ib. SEC. XIX. THE public printer shall furnish the examiners on demand, with one hundred copies of this act; one of which copies signed by three of the said examiners, shall be delivered to each pilot.

ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

A BILL reducing into one, the several Acts for regulating the Inspection of Pork, Beef, Tar, Pitch, and Turpentine.

1762. ch. 3. SECTION I. WHEREAS experience has shewn that the establishment of proper regulations for the inspection of pork, beef, tar, pitch, and turpentine, have contributed to the sale and export of those articles, *Be it therefore enacted by the General Assembly*, That no pork or beef shall be exported out of this commonwealth, or tar, pitch, or turpentine exposed to sale, or exported, until the same shall be packed or filled in barrels under the regulations herein after expressed; and the justices of every county court within this commonwealth, are hereby authorized and required whenever application shall be made to any court for that purpose, and in the months of August and September annually, to nominate and appoint in open court, one or more (not exceeding six in one county) fit and able person or persons, residing in the same county, to inspect the package and weigh all pork and beef, and also to inspect the filling of all tar, pitch, and turpentine, packed or filled for sale or exportation, in their respective counties; and the said courts may appoint the said person or persons to be inspectors of pork, beef, tar, pitch, and turpentine, if such person appears to them to be duly qualified, or may appoint several inspectors, as in their discretion shall seem best. And every person so appointed, shall, before he enters upon the execution of that office, make oath before the justices of his county court, carefully to view, inspect, and examine, when required, all pork, beef, tar, pitch, and turpentine, packed or filled for sale or exportation, and to the best of his skill and judgment not to pass or stamp any barrel of pork or beef, or any tar, pitch, or turpentine, that is not good, clean, sound, merchantable, and of the weight or gauge by this act directed; and faithfully to discharge the duty of his office, without favor, affection or partiality; and shall constantly attend upon notice at such time and place as the owner of any of the said commodities shall appoint, to inspect the same within his county, but shall not inspect or stamp any pork, beef, tar, pitch, or turpentine imported from Carolina, until the same shall be brought to some public landing; and shall provide a stamp or stamps, with the first letter of his county, the letter V for Virginia, the first letter of his own Christian name, and his whole surname at length, to be stamped on each barrel or cask by him passed; and on every barrel of pork the letter L for large, or the letter S for small pork; and on the head of every barrel of tar, pitch, or turpentine, shall distinguish whether the same be tar, pitch, or turpentine, for which he may demand and take for every barrel of pork or beef by him stamped, four pence; for every barrel of tar, pitch, or turpentine, three pence, and no more, to be paid down by the owner. And if any officer so appointed and sworn, shall neglect his duty, or stamp any of the commodities aforesaid, contrary to this act, he shall forfeit and pay twenty shillings for every barrel of pork or beef, and five shillings for every barrel of tar, pitch, or turpentine, which shall be found not duly qualified, or of less weight or contents than this act requires, and also five shillings for every neglect of his duty; recoverable by the informer, with costs, before a justice of the peace of the county where such offence shall be committed.

Oct. 1776. ch. 43.

Oct. 1784. ch. 81. s. 3.

May 1783, ch. 7. s. 1.

SEC. II. EVERY barrel of pork or beef packed within this commonwealth for sale or exportation, or imported here, shall contain at least two hundred and

twenty pounds nett, of good, clean, fat, sound, merchantable meat, well salted between each layer, well pickled, nailed, and pegged, and no more than two heads of pork in one barrel; and no inspector shall pass or stamp any barrel of pork or beef that does not appear to such inspector to be well salted and cured before the same is packed; and after the same has been inspected, weighed, found merchantable, and passed by the inspector, or inspectors, residing in the county where the same shall be packed or imported, every such barrel shall be by him or them stamped or branded as aforesaid, and certificate thereof given to the owner: And every barrel of tar, pitch, and turpentine shall contain thirty-one gallons and a half at the least, and after the same shall be inspected, gauged, found clean, well and truly made merchantable, and passed by the inspector or inspectors of the county where the same shall be inspected, shall be by him or them stamped or branded, and a certificate thereof given to the owners as aforesaid.

SEC. III. ALL beef or pork exposed to sale or barter within this commonwealth in barrels, whether the same be packed here or imported from Carolina, or any other place, shall contain at least two hundred and twenty pounds nett meat, allowing only two and a half *per centum* for shrinkage or loss of weight; and every barrel of tar, pitch, or turpentine, exposed to sale or barter, whether made here or imported from any other place, shall contain at least thirty-one gallons and a half, and be stamped as this act directs; and if any person shall presume to sell or expose to sale or barter, any barrel of pork, beef, tar, pitch, or turpentine of less weight or gauge, he or she shall forfeit and pay to the informer twenty-four shillings current money for every such barrel of pork or beef, and five shillings for every such barrel of tar, pitch, or turpentine, sold or exposed to sale or barter in this commonwealth; recoverable with costs, by the informer, before any justice of the county where such offence shall be committed, although the penalty shall exceed twenty-five shillings current money; and every justice of the peace upon such complaint before him made, and due proof of such offence, shall and may by virtue of this act, give judgment for the whole penalty, and award execution thereupon; any law to the contrary thereof notwithstanding.

SEC. IV. *PROVIDED nevertheless*, That from such judgment for more than twenty-five shillings current money, the party grieved may appeal to the next court to be held for the county wherein such complaint was made, the appellant entering into bond with sufficient security before the justice by whom the judgment shall be given, that he will prosecute his appeal with effect, and pay the same judgment, and all costs awarded by the court, if the judgment shall be affirmed; and the justice of peace taking such bond shall return the same, together with the whole record of his proceedings in the cause to the same court to which such appeal shall be, which court shall and may receive, hear and finally determine the same.

SEC. V. EVERY feller or exporter of beef, pork, tar, pitch, or turpentine, packed or filled in this commonwealth, and stamped or branded, shall make oath before a justice of peace, at the time of the delivery of the goods sold or exported, that the several barrels by him then sold or exported, are the same that were inspected and passed, and do contain the full quantity, without embezzlement or alteration to his knowledge; and every person taking a false oath, and being lawfully convicted thereof, shall suffer the pains and penalties inflicted on persons guilty of wilful and corrupt perjury, and moreover shall forfeit and pay the sum of fifty pounds; to be recovered by any person or persons that will sue for the same, to his or their own use.

SEC. VI. EVERY cooper, and the master or owner of every servant or slave, who shall set up barrels for pork, beef, tar, pitch, or turpentine, shall make the same in the following manner, to wit: Barrels for pork and beef shall be made with good, strong, well seasoned white oak timber, clear of sap, and not less than five eighths of an inch thick; tight and well hooped with twelve hoops at least; and in the barrels for turpentine, there shall be no sap pine timber, and they shall be hooped two thirds of their length; every barrel for pork or beef to contain from twenty-nine to thirty-one gallons each, and every barrel for tar, pitch, or turpentine, thirty-one gallons and a half at least, with his name, or the name of the master of the servant or slave at length, stamped or branded upon every barrel, un-

OA. 1776. ch.
43. s. 14.

der the penalty of two shillings and six pence for every barrel set up for sale or exportation, and not so stamped or branded, of less contents than aforesaid.

SEC. VII. THE several fines and forfeitures imposed by this act (except such as are otherwise recoverable) shall and may be recovered to the use of the informer, where the same shall not exceed twenty-five shillings, before any justice of the peace; and for any sum above twenty-five shillings, and not exceeding five pounds, by petition in any county court, and for all sums above five pounds, in any court of record within this commonwealth, by action of debt or information, with costs of suit.

ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

PROVIDED always, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred, prior to the commencement of this act.

A BILL reducing into one, the several Acts to oblige Vessels coming from foreign parts to perform Quarantine.

Oct. 1783, ch.
19. s. 1.

SECTION I. **W**HEREAS it is necessary to compel vessels arriving in this country from foreign parts of the world, to perform quarantine in certain cases: *Be it enacted by the General Assembly*, that vessels, persons, and merchandize coming or brought into any place within this commonwealth from any other part of the world, whence the Governor with advice of his Council shall judge it probable that any plague or other infectious disease may be brought, shall be obliged to make their quarantine in such place, during such time, and in such manner as shall be directed by the Governor, by his order in Council, notified by proclamation, to be published in the Virginia Gazette; and until they shall be discharged from the quarantine, no such persons or merchandize shall come or be brought on shore, or go or be put on board of any other vessel in the commonwealth, but in such manner, in such cases, and by such license, as shall be permitted by the order; and the vessels and persons receiving goods out of her, shall be subject to the orders concerning quarantine, and for preventing infection, which shall be made by the Governor and Council and notified as aforesaid.

15. ib.

SEC. II. THE master of a vessel coming from sea, on board of which there shall be a person infected with the plague or other pestilential disease, shall immediately make the case known to such person as shall be appointed for the purpose in the manner as is herein after directed, who shall give intelligence thereof with all speed to the Governor, that measures may be taken for support of the crew, and precautions used to prevent the spreading of the infection; and the master shall not enter into any port, but shall remain in some open road, and shall avoid and hinder all intercourse with other vessels or persons, nor shall any of the passengers or crew go on shore until the order of the Governor and Council shall be received by the master: whosoever shall offend against this act in either or any of the aforementioned instances, shall be amerced the sum of five hundred pounds.

6. ib.

SEC. III. WHEN a place shall be infected with the plague or other pestilential disease, or when the Governor with the advice of Council shall have notified by proclamation published in the Virginia Gazette, that it is judged probable the plague or other pestilential disease may be brought from any place, if a vessel from such place shall be coming into a port of the commonwealth, the person who shall be authorized to see quarantine performed, shall go off or cause some other to go off to the vessel, and at a convenient distance require the commander to declare what is his name, at what places the cargo was taken on board, at what places the

vessel touched in her passage, whether any of those places were infected with the plague or any other pestilential disease, how long the vessel had been in her passage, how many persons were on board when she set sail, whether any on board during the voyage had been infected with the plague or other pestilential disease, and who they are, how many died in the voyage, and of what distemper, what vessels he, or any of his company with his privity, went on board of, and whether any of their company had been on board of his vessel in their voyage, and to what places those vessels belonged, and what are the contents of his lading. Oc. 1783. ch. 19. s. 1.

SEC. IV. THE master of a vessel coming from a place infected with the plague or other pestilential disease, or having any person on board so infected, who shall conceal it, or who shall not give true answers to the questions so to be propounded to him, shall be amerced the sum of five hundred pounds. The master of a vessel ordered to perform quarantine, when he shall be required, after his arrival at the place appointed, shall deliver to the officer authorized to see it performed there, the bills of health and manifests he shall have received during the voyage, with his log-book and journal; and refusing or neglecting so to do, or to repair in convenient time after notice to the place appointed, or escaping from thence before quarantine performed, shall be amerced the sum of five hundred pounds. Persons ordered to perform quarantine, if they shall escape, may be compelled to return, or if they shall attempt to escape, may be detained by the persons who shall be authorized to see the quarantine performed, and who may employ force and call for the assistance of others, if it be necessary, for this purpose. Any person going on board a vessel or into a place under quarantine, without license from the superintendant thereof, may be compelled to remain there, in the same manner as he might have been if he had been one of the crew of the vessel. The person thus appointed to execute an order concerning quarantine, guilty of wilful breach or neglect of duty, shall be amerced the sum of one thousand pounds. And any person embezzling, or wilfully damaging goods performing quarantine under his direction, shall be liable to the party injured for treble the value of the damages sustained thereby. The vessel, persons, and goods, after quarantine performed, certificate thereof, and that they are free from infection, being given by the superintendant, shall be no further restrained by virtue of this act. 1b. 1b.

SEC. V. A PERSON authorized to see quarantine performed, or a watchman upon any vessel, place, or goods, under quarantine, deserting his duty, or willingly permitting a person, vessel, or goods, to depart, or be conveyed away from the place where the quarantine ought to be performed, without a lawful license; or a person empowered to give a certificate of the performance of quarantine, knowingly giving a false certificate, shall be amerced the sum of one hundred pounds. The forfeitures inflicted by this act shall be to the use of the commonwealth, and shall be recovered by action of debt, in which action the defendant shall be ruled to give special bail. 1b. 1b.

SEC. VI. THE Governor with the advice of Council shall be, and he is hereby authorized to appoint, and from time to time to fill up such vacancies as may take place in each of the ports that have been, or hereafter may be appointed by the Congress of the United States as ports of entry and delivery, some suitable person to discharge the duties above designated, and to make such compensation as in their judgment may be sufficient to each of the said persons for any services they may occasionally perform in the same.

SEC. VII. THE Governor in Council, shall direct the auditor to issue his warrant on the treasurer for such sums of money as may be necessary for the support of the persons performing quarantine and those appointed to see it performed, who is directed to pay the same out of the public money in his hands, appropriated to defray the contingent charges of government, and shall be repaid by the master or owner of the vessel, after quarantine performed. 1b. 1b. s. 2.

ALL and every acts and parts, clause and clauses of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

A BILL declaring the Punishment in Case of Rape.

Stat. 13. Ed. 1. ch. 34. SECTION I. **BE** it enacted and declared by the General Assembly, That if any man, from and after the commencement of this act, do ravish a woman married, maid, or other, where she did not consent before nor after ; or shall ravish a woman married, maid, or other, with force, although she consent after ; the person so offending, shall be adjudged a felon, and shall suffer death as in case of felony, without the benefit of clergy.

18. Eliz. ch. 7.

ALL and every statute and statutes, within the purview of this act, shall be, and the same are hereby repealed : *Provided always*, That nothing in this act contained, shall be construed to repeal any such statute or statutes, for so much thereof as relates to any offence within the purview thereof committed or done, before the commencement of this act.

A BILL reducing into one the several Acts for apprehending and securing Runaways.

1783. ch. 84. SECTION I. **BE** it enacted by the General Assembly, That any person may apprehend a servant or slave, suspected to be a runaway, and carry him before a justice of the peace, who if to him the servant or slave appear, by the oath of the apprehender, to be a runaway, shall give a certificate of such oath, and the distance, in his opinion, between the place where the runaway was apprehended, and that from whence he fled ; and the apprehender shall thereupon carry the runaway to the last mentioned place, or deliver him to the owner, or some other authorized to receive him ; and shall be entitled to ten shillings, and one shilling for every mile of such distance as he shall necessarily carry him, to be paid by the owner. The runaway, if the owner be not known, or reside not in the commonwealth, shall be by warrant of the justice, committed to the jail of his county, the keeper whereof, shall forthwith cause an advertisement, with a description of the runaway's person and wearing apparel, to be set up at the door of the courthouse, and of every church in his county within ten miles. If the owner claim not within two months thereafter, the sheriff shall publish a like advertisement for three months in the Virginia Gazette, and shall hire the runaway out during such time and for such wages, as his county court shall approve, having put an iron collar, stamped with the letter F round his neck, and out of his wages pay the reward for apprehending, and the expenses incurred on his account ; but he shall deliver the runaway, even before the time expire, and pay the balance of the wages received, if any, to him who shall claim, and who having proved before the court of some county, or a justice of the peace of the county in which such runaway is confined, that he had lost such an one as was described in the advertisement, and having there given security to indemnify the sheriff, shall produce the clerk's, or the justice's certificate of such proof made, and security given, proved by his own or another's oath, the runaway, when shewn to him, to be the same that was so lost, and pay so much as the expenses aforesaid shall exceed the wages. The runaway, being a slave, after the end of one year from the last advertisement, shall be sold, and the proceeds of the sale, with the balance of the wages, paid to the public treasurer, for the use of the owner, proving his property at any future time, or otherwise for the use of the commonwealth. If the runaway die in jail, the expenses shall be defrayed by the public. The runaway if he shall have crossed the bay of Chesapeake, shall be delivered to the sheriff of some county bounded thereby, who shall transport him to the other side, and cause him to be put into the hands of a constable, to be by constable to constable conveyed to the owner, who shall pay to the sheriff five pounds, and to the constable, one shilling for every mile he shall necessarily travel in performing this duty.

1769. ch. 19. SEC. II. UPON any owners neglecting or refusing to pay the above reward, the taker up may sue for, and recover the same with costs, either by warrant before a single justice, where the reward shall not exceed twenty-five shillings ; or, where the reward shall exceed that sum, by petition, or action, as the case may require, in any court of record within this commonwealth.

1. 3.

SEC. III. THE keeper of every gaol may demand and take for the commitment of every runaway, two shillings current money, or twenty pounds of tobacco, and the same for releasement; and for every twenty-four hours keeping him or her in gaol, one shilling, and no more; and if he, or any sheriff, or gaoler, shall demand or take any other or greater fee than is, or shall be allowed by law for runaways, he or they so offending, shall, for every such offence, forfeit and pay twenty shillings to the party grieved, and shall also refund and pay back all money or tobacco received over and above the legal fees; recoverable with costs, before any justice of the peace of the county where such offence shall be committed. 1753. ch. 2. s. 24. 1772. ch. 6. s. 3.

ALL and every act and acts, or parts of acts, within the purview of this act, shall be, and are hereby repealed.

PROVIDED, That all rights and remedies given by every such act or acts, and all such parts of acts, shall be, and remain as if this act had not been made.

A BILL reducing into one, the several Acts concerning Servants.

SECTION I. BE it enacted by the General Assembly, That all white persons not being citizens of any of the confederated states of America, who shall come into this commonwealth under contract, to serve another in any trade or occupation, shall be compellable to perform such contract, specifically during the term thereof, or during so much of the same as shall not exceed seven years. Infants under the age of fourteen years brought in under the like contract, entered into with the consent of their father or guardian, shall serve till their age of twenty-one years only, or for such shorter term as the said contract shall have fixed. 1785. ch. 83. s. 1.

SEC. II. THE said servants shall be provided by their master with wholesome and sufficient food, cloathing and lodging; and at the end of their service, if they shall not have contracted for any reward, other than transportation, food, cloathing, and lodging, shall receive from him one new and complete suit of cloathing, suited to the season of the year; to wit, a coat, waistcoat, pair of breeches and shoes, two pair of stockings, two shirts, a hat and blanket. Ib. ib. s. 2.

SEC. III. THE benefit of the said contract of service, shall be assignable by the master to any person to whom the servant shall, in the presence of a justice of the peace, freely consent that it shall be assigned, the said justice attesting such free consent in writing, and shall also pass to the executors, administrators and legatees of the master. Ib. ib. s. 3.

SEC. IV. ANY such servant being lazy, disorderly, guilty of misbehaviour to his master, or in his master's family, shall be corrected by stripes, on order from a justice of the county, city, or corporation, wherein he resides; or refusing to work, shall be compelled thereto in like manner, and moreover shall serve two days for every one he shall have so refused to serve, or shall otherwise have lost, without sufficient justification. All necessary expenses incurred by any master for apprehending and bringing home any absconding servant, shall be repaid by further service, after such rates as the court of the county, city, or corporation, shall direct; unless such servant shall give security, to be approved of by the court, for repayment in money, within six months after he shall be free from service, and shall accordingly pay the same. Ib. ib. s. 4.

SEC. V. IF any master shall fail in the duties prescribed by this act, or shall be guilty of injurious demeanor towards his servant, it shall be redressed on mo- Ib. ib. s. 5.

tion, by the court of the county, city, or corporation, wherein the servant resides, by immediate discharge from service if the injury were gross, or by a specific order for a change in his demeanor, and a discharge from service, if such order be disobeyed.

1785. ch. 83. SEC. VI. ALL contracts between master and servant during the time of service, shall be void.
s. 6.

1785. ch. 86. SEC. VII. THE court of every county, city, or borough, shall at all times receive the complaints of servants, being citizens of any one of the confederated states of America, who reside within the jurisdiction of such court, against their master's or mistresses, alledging undeserved, or immoderate correction; insufficient allowance of food, raiment, or lodging; and may hear and determine such cases in a summary way, making such orders thereupon, as in their judgment will relieve the party injured in future; and may also in the same manner hear and determine complaints of masters or mistresses against their servants, for desertion, without good cause; and may oblige the latter, for loss thereby occasioned, to make retribution, by farther services, after expiration of the times for which they had been bound.
s. 2.

1783. ch. 9. SEC. VIII. IF any servant shall, at any time, bring in goods or money, or during the time of their service, shall, by gift, or any other lawful means, acquire goods or money, they shall have the property and benefit thereof to their own use. And if any servant shall be sick or lame, and so become useless or chargeable, his or her master or owner shall maintain such servant until his or her whole time of service shall be expired. And if any master or owner shall put away a lame or sick servant, under pretence of freedom, and such servant becomes chargeable to the county, such master or owner shall forfeit and pay ten pounds current money, to the overseers of the poor of the district wherein such offence shall be committed, to the use of the poor of the district; recoverable with costs, by action of debt, in any county court of this commonwealth; and moreover shall be liable to the action of the said overseers of the poor at the common law, for damages.
s. 7.

1b. ib. s. 9. SEC. IX. NO negro, mulatto, or Indian, shall at any time purchase any servant, other than of their own complexion; and if any of the persons aforesaid shall, nevertheless, presume to purchase a white servant, such servant shall immediately become free, and be so held, deemed, and taken.

1b. ib. s. 10. SEC. X. NO person whatsoever shall buy, sell, or receive of, to, or from any servant, any coin or commodity whatsoever, without the leave or consent of the master or owner of such servant; and if any person shall presume to deal with any servant, without such leave or consent, he or she so offending, shall forfeit and pay to the master or owner of such servant, four times the value of the thing so bought, sold, or received; to be recovered with costs, by action upon the case, in any county court of this commonwealth; and shall also forfeit and pay the further sum of five pounds, to any person who will sue for the same; to be recovered with costs, by summons and petition, or receive on his or her bare back, thirty-nine lashes, well laid on, at the public whipping-post, but shall nevertheless be liable to pay the costs of such petition and summons.

1b. ib. s. 16. SEC. XI. IN all cases of penal laws, where free persons are punishable by fine, servants shall be punished by whipping, after the rate of twenty lashes for every hundred pounds of tobacco, or fifty shillings current money, so that no servant shall receive more than forty lashes at any one time, unless such offender can procure some person to pay the fine.

1b. ib. s. 12. SEC. XII. EVERY servant upon expiration of his or her time, and proof thereof made before the court of the county where he or she last served, shall have his or her freedom recorded, and a certificate thereof under the hand of the clerk,

which shall be sufficient to indemnify any person for entertaining or hiring such servant; and if such certificate shall happen to be torn or lost, the clerk, upon request, shall issue another, reciting therein the loss of the former. And if any person shall harbour or entertain a servant, not having and producing such certificate, he or she shall pay to the master or owner of such servant, thirty pounds of tobacco for every natural day he or she shall so harbour or entertain such runaway; recoverable with costs, by action of debt, in any county court of this commonwealth. And if any runaway shall make use of a forged certificate, or after delivery of a true certificate to the person hiring him or her, shall steal the same, and thereby procure other entertainment, the person entertaining or hiring, shall not be liable to the said penalty, but such runaway, besides making reparation for loss of time and charges of recovery, shall stand two hours in the pillory, on a court day, for making use of such forged or stolen certificate; and the person forging the same shall forfeit and pay ten pounds current money, one moiety to the commonwealth, and the other moiety to the owner of such runaway, or the informer; recoverable with costs, in any county court of this commonwealth; and on failure of present payment, or security for the same, within six months, such offender shall receive thirty-nine lashes, on his or her bare back, well laid on, at the common whipping-post. And where a runaway shall happen to be hired upon a forged certificate, and afterwards denies the delivery thereof, the *onus probandi* shall lie upon the party hiring such runaway.

ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

PROVIDED always, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred, prior to the commencement of this act.

A BILL reducing into one the several Acts in force concerning the Sinking-Fund.

SECTION I. **B**E it enacted by the General Assembly, That there shall be a fund called and known by the name of the sinking fund. The surplus arising from other funds not particularly appropriated, and such unappropriated money as may, from time to time, be in the public treasury which shall be by law directed to the support of such fund, and such other occasional aids as the General Assembly may direct, shall constitute the said sinking fund. The said fund shall be conducted and managed, and the money therein applied, agreeable to the purposes of this act in such manner as the Governor with the advice of Council shall direct. 1787. ch. 5. s. 2.

SEC II. THE treasurer of this commonwealth shall be, and he is hereby authorized to draw the interest which shall be payable to this state by the commissioner of loans for the United States, from time to time on account of the deficiency of the loan of the state debt, pursuant to an act of Congress intituled "an Act making provision for the debt of the United States"; which interest shall be applied to the purchase of such public securities of this state, or of the United States, as may in the opinion of the Executive, be most for the public benefit. 1791. ch. 9. s. 1.

SEC. III. THE Treasurer shall cause to be registered, in a book kept for that purpose, all the public securities and certificates which shall come into his office by virtue of this act. An account of which, as well as a fair state of the fund, shall be rendered annually to the General Assembly. 1787. ch. 5. s. 7.

SEC. IV. ONE tenth of the arrearages due for the revenue taxes of one thousand seven hundred and eighty eight, and one thousand seven hundred and eighty nine, shall be also appropriated to the sinking fund, and that proportion shall be set 1789. ch. 38. s. 4.

apart from the specie or Tobacco coming in, at the rates receivable by law, and disposed of under the direction of the Executive in aid of the said sinking fund.

1787. ch. 5. SEC. V. ALL the money in the said fund, or which may hereafter be appropriated to the same, shall be applied in manner above mentioned to the redemption of the public securities, and no money shall ever be drawn from the same for any other purpose by construction of any general words in any act of the General Assembly, nor by any authority except some act of Assembly wherein the application of such money shall be expressly directed, and the sinking fund specially named.

1791. ch. 9. SEC. VI. THE agent of the said sinking fund shall be entitled to receive for his services, a commission not exceeding five *per centum* on the nett profits to the commonwealth from the purchases aforesaid.

ib. ib. s. 4. SEC. VII. SO much of an act, intituled, "An Act providing a sinking fund for the gradual redemption of the public debt" and of every other act as entitles the Governor with the advice of Council, to warrants for interest on certificates in the treasury, or in the sinking fund, and so much of every other act, as comes within the purview of this act, shall be, and the same is hereby repealed.

PROVIDED nevertheless, that nothing in this act contained shall be construed to repeal one act of Assembly passed on the second day of January 1788, intituled "An act directing the sale of certain public lands."

A BILL reducing into one, the several Acts for punishing Persons guilty of certain Thefts and Forgeries.

May, 1776. SECTION I. **B**E it enacted by the General Assembly, That if any person shall counterfeit, aid, or abet in counterfeiting, or making base coin, or shall pass any such in payment, knowing the same to be counterfeit or base, every such person shall, on legal conviction, suffer death without benefit of clergy.

1789. ch. 19. SEC. II. IF any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly act, or assist in the false making, forging, or counterfeiting, any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money, or any acquittance or receipt either for money or goods, with intention to defraud any person whatsoever, or shall utter or publish as true, any false, forged, or counterfeited deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money, indorsement or assignment of any bill of exchange or promissory note for the payment of money, acquittance, or receipt, either for money or goods, with intention to defraud any person, knowing the same to be false, forged, or counterfeited, then every such person, being thereof lawfully convicted, shall be deemed guilty of felony, and suffer death as a felon, without benefit of clergy.

Oct. 1784. ch. 69. SEC. III. IF any person within this commonwealth, shall forge or counterfeit, alter or erase, any certificate or warrant issued or to be issued by any person or persons authorised for that purpose, either by the Congress of the United States, or the legislature of this state, for the payment of money, or shall be aiding or assisting therein, or shall demand payment thereof, knowing the same to be forged, counterfeited, altered, or erased, or shall transfer any such certificate or warrant, knowing the same to be forged or counterfeited, altered, or erased; or shall forge or counterfeit, alter or erase, any certificate whatever, for the purpose of obtaining a settlement of money from any person or persons authorised for that purpose, either

by the Congress of the United States, or the legislature of this state, or shall be aiding or assisting therein, or shall require settlement thereon, or transfer the same, knowing it to be forged, counterfeited, altered, or erased, he or she so offending, and thereof legally convicted, shall suffer death, without benefit of clergy.

SEC. IV. IF any person whatsoever, shall forge or counterfeit, alter or erase the stamp or receipt of any inspector of flour or hemp, or tender in payment any such forged or counterfeited, altered or erased receipt, knowing it to be such, and shall thereof be convicted, he or they shall be adjudged a felon, and suffer death as in case of felony, without benefit of clergy. May. 1782. ch. 52. s. 6.

SEC. V. HE or she shall be adjudged a felon, and not have the benefit of clergy, who shall forge or counterfeit, alter or erase, the stamp or receipt of any inspector or inspectors of tobacco, or shall cause or procure such stamp or receipt to be forged or counterfeited, altered or erased, or shall aid or assist in forging or counterfeiting, altering or erasing, such stamp or receipt, or shall pass or tender, or shall cause or procure to be passed or tendered, any such stamp or receipt, in payment or exchange, knowing the same to have been forged or counterfeited, altered or erased, or shall have in his or her custody or possession, any inspector's stamp or receipt, which hath been altered or erased, knowing the same to have been altered or erased, and shall not discover such altered or erased stamp or receipt to two justices of the peace within five days after they or either of them shall have come to his or her possession, or shall export or cause to be exported, any hogthead or cask of tobacco, stamped with a forged or counterfeited stamp, or shall receive or demand tobacco of an inspector, upon any forged or counterfeited, altered or erased stamp or receipt, knowing such stamp or receipt to be forged or counterfeited, altered or erased. May, 1783. ch. 10. s. 35.

SEC. VI. HE or she shall be adjudged a felon, and not have the benefit of clergy, who shall steal or by other means take from the possession or custody of another, any warrant from the register of the land-office of this commonwealth, to authorize a survey of waste and unappropriated lands; or who shall alter, erase, or aid or assist in the alteration or erasure of any such warrant; or forge or counterfeit, or aid, abet, or assist in forging or counterfeiting any written or printed paper, purporting to be such warrant; or who shall transfer to the use of another, or for his or her own use, present or cause to be presented to the register for the exchange thereof, or to a surveyor for the execution thereof, any such warrant, or paper purporting to be such warrant, knowing the same so transferred or presented for the exchange or the execution thereof, to be stolen, or by other means taken from the possession or custody of another, or altered or erased, or forged or counterfeited:—And he or she shall be adjudged a felon, and not have the benefit of clergy, who shall falsely make or counterfeit, or aid, abet, or assist in falsely keeping, or counterfeiting any instrument, stamping an impression in the figure and likeness of the seal officially used by the register of the land-office, or who shall have in his or her possession or custody, such instrument, and shall wilfully conceal the same, knowing it to be falsely made or counterfeited. May, 1779. ch. 13. s. 6.

SEC. VII. HE or she shall be adjudged a felon, and not have the benefit of clergy, who shall steal, or by robbery take from the possession or custody of another, any loan-office certificate of the United States, or any of them, or any warrant of the Governor, or other person exercising that function, or any certificate of the auditor for public accounts to the treasurer, authorizing the payment of money, or shall present or cause to be presented such loan-office certificate at a loan-office of the United States, or any of them, for the discharge of the whole or any part thereof, or such warrant or auditor's certificate at the public treasury for the payment thereof, knowing such loan-office certificate, or warrant, or auditor's certificate to have been stolen, or by robbery to have been taken from the possession or custody of another. Ib. ib. ch. 4. Oa. 1780. ch. 30.

ALL and every statute and statutes, act and acts, clause or clauses thereof, within the purview of this act (except as herein after provided) shall be, and are hereby repealed.

PROVIDED always, That nothing in this act contained, shall be construed to repeal the said statutes or acts, for so much of them as relates to any offence within the purview thereof, committed or done before the commencement of this act.

A BILL concerning Tithables ; directing the Mode of laying and collecting the County Levy ; and of registering Births and Deaths.

1748. ch. 16.
s. 1. as altered
by 1769. ch.
37. s. 1. & 2.

SECTION I. **B**E it enacted by the General Assembly, That all male persons of the age of sixteen years and upwards, and all female slaves of the age of sixteen years and upwards, shall be, and they are hereby declared to be, tithable, and chargeable for defraying the county levies and poor rates ; except such only as the county courts may, by reason of age, infirmity, or other charitable reasons, exempt from the payment of public taxes.

1748. ch. 16.
s. 2.

SEC. II. *PROVIDED*, That nothing herein contained, shall be construed to extend to the Governor for the time being, or to his domestic servants, or to the president, masters, scholars, or domestic servants of the college of William and Mary, or to the person of any ordained minister, or to the person of any constable so long as he continues in office, so as to charge them or either of them, as tithables within the meaning of this act.

SEC. III. THE commissioners of the tax within the several counties of this commonwealth shall, and they are hereby required and empowered at the same period in each year in which they are collecting lists of the taxable property in their respective districts, under the act intituled "An act to reduce into one the several acts concerning the public revenue," to demand from each person, being tithable, or having in his or her possession such as are tithable, a written list of such as are tithable persons in his or her family ; which lists the said commissioners, respectively, shall arrange in an alphabetical table, and on or before the _____ day of _____, annually, together with the vouchers taken by them as aforesaid, return to the clerks of the courts.

1748. ch. 16.
s. 4.

SEC. IV. THE clerks of the several county courts, shall at their next court, after the table containing the list of tithables as aforesaid shall be returned to them, set up in the courthouse of their county fair copies of such tables.

1b. ib. s. 5.
as altered by
subsequent re-
gulations.

SEC. V. THE master or owner of a family, or in his or her absence or non-residence at the plantation, his or her agent, attorney, or overseer, shall at the time appointed by this act, in a list under his or her hand, deliver or cause to be delivered, to the commissioner of the tax for that district, the names and numbers of all tithables abiding in, or belonging to, his or her family the ninth day of March preceding the time of delivering in such list ; or the master or owner thereof, or in case of his or her absence or non-residence, the overseer shall be adjudged a concealer of such and so many tithables as shall not be listed or given in ; and for every tithable person so concealed, shall forfeit and pay five hundred pounds of tobacco, one moiety for the use of the county towards lessening the levy thereof, and the other moiety to the use of the informer ; to be recovered by action of debt or information in any court of record. And when any overseer shall fail to list the tithables on any plantation whereon he is overseer, the master or owner shall be subject to the payment of their levies in the same manner as he would have been if they had been listed. And if any commissioner of the tax shall not truly list and enter the names and numbers of his own tithables in that district or county for which he is to return a list, he shall be adjudged a concealer, and for every tithable person so by him concealed and not listed, shall forfeit and pay one thousand pounds of tobacco ; to be applied and recovered as aforesaid.

SEC. VI. *PROVIDED* always, That if any owner or overseer shall happen by sickness or otherwise to omit delivering his or her list to the commissioner of the tax at the time the same may be required, it shall be lawful for such person to send his or her list to the house of such commissioner at any time before he makes his return to the clerk of the county as aforesaid, which shall discharge him or her from the penalty aforesaid. 1748. ch. 16
§. 6.

SEC. VII. THE justices of the several counties within this Commonwealth shall, and they are hereby authorized and empowered, at their courts respectively to be held in the month of June or July, annually, (or as soon after as may be if no court should be held in either of those months) to proceed to make up in their minutes, an account of all expences incurred by the said court under authority of any law, chargeable on the county and remaining unpaid, stating therein the sums due, for what, and to whom due, and all credits owing to the said county. When the balance due from the county is thus ascertained, by deducting the sums due to the county, from those owing by the county, the said justices shall proceed to levy and assess on the tithable persons in their respective counties, the amount of that balance in equal proportions. The sums due to the county and the sum to be assessed on the tithables being added together, shall then be appropriated by the court, so as to shew the right of each county creditor, and the amount of his demand.

SEC. VIII. THE clerks of the county courts respectively shall within ten days after the levy has been apportioned by the court as aforesaid, deliver to the sheriff or collector, a list of the persons as aforesaid chargeable with the payment of levies, and the sum to be paid by each for his county rate, and also a list of the sums due to the said county, and of the persons from whom due; as also of the persons to whom the same ought to be paid, with the amount of their respective demands; the said sheriff or collector shall immediately proceed to collect from the persons chargeable therewith, the sums due to the said county, and the county rate settled as aforesaid, with the same powers and for the same commission, as in the case of public taxes; and shall pay the same to the county creditors according to their respective demands.

SEC. IX. IF any sheriff or county collector shall fail to account with and satisfy the county creditors as aforesaid the respective sums levied for them or either of them, on or before the _____ day of _____ annually, or shall fail to adjust and settle the account of his collection with the county by the said _____ day of _____ annually, it shall and may be lawful for any county creditor who may be injured by such delinquency to obtain judgment against such sheriff or collector, his or their heirs, executors, administrators, or securities, in the court of that county where the delinquency happened, upon giving ten days previous notice to such delinquent sheriff or collector, his or their heirs, executors, administrators, or securities. And it shall and may be lawful, where such sheriff or collector fails to account with the county as aforesaid, for the court of that county before whom he ought to account, to enter judgment against such delinquent sheriff or collector for whatever shall appear to be due from such sheriff or collector, and award execution thereon, giving such sheriff ten days previous notice of such proceeding.

SEC. X. THE court of each county shall and they are hereby authorized and empowered, at the time of settling their county levy as aforesaid, to appoint the sheriff of their county, or any other person, collector of their county levies, taking from the person so appointed a bond, in the penalty at least of double the sum to be collected, payable to the justices of the county so appointing him, with two or more responsible sureties, conditioned for the faithful collection, accounting for, and paying the several sums wherewith he shall be chargeable as sheriff or collector of the county, in the manner directed by law.

SEC. XI. EACH commissioner of the tax failing to take or return the list of tithables as directed by this act, shall forfeit and pay two thousand pounds of tobacco, one moiety for the use of the county towards lessening the county levies, and the other moiety to the informer; to be recovered by action of debt or information in any court of record.

1748. ch. 16. SEC. XII. IF any clerk of the county courts shall fail to publish in their court-
s. 4. houses the list of tithables, as herein before is directed, or shall fail to deliver to the collector of the county levies the lists hereby required to be delivered to him, at the time and in the manner required in this act, such clerk so omitting, shall for each offence, forfeit and pay the sum of ten pounds; to be applied and recovered as aforesaid.

SEC. XIII. EACH collector of the county levies appointed as aforesaid by the court, may appoint one or more deputies to assist him in his collections, for whose conduct he shall be answerable, which deputies shall have the same power as the collector himself; and such collector shall have the same remedy and mode of recovery against his deputies or either of them, and their securities respectively, for any sums of money, which by virtue of this act, such collector may be subjected to the payment of, on account of the transactions of any of his deputies, as the collector himself is subject to by law.

1713. ch. 1. SEC. XIV. AS well to prevent frauds in listing tithables, as to obtain and
s. 2. preserve a regular register of such births and deaths as may happen in this commonwealth, *Be it enacted*, That the parents of every child that shall be born free, or one of them, and the master, owner, or overseer of every child that shall be born a slave, shall within one month after the birth of such child or children, give notice in writing of the birth of such child or children, together with the name of the parents of such free-born child, and the name of the owner or master of such child born in slavery, distinguishing whether such child or children be male or female, to the overseers of the poor, or one of them of the county or district wherein such birth shall happen; any parent, master, owner, or overseer failing herein, shall forfeit and pay two hundred pounds of tobacco respectively; one moiety for the use of the county, and the other moiety to the informer.

Ib. ib. s. 3. SEC. XV. THE master or mistress of any family wherein any person may die being free, and the master, owner, or overseer of any slave who may die, shall within thirty days after the death of such free person or slave, give notice in writing of the death of such free person, and the christian and sur-name of such free person, and of the death of such slave, and the name or names such slave was called by, together with the names or name of the master or owner of such slave, to the overseers of the poor, or one of them; any master, mistress, owner, or overseer failing herein, shall forfeit and pay two hundred pounds of tobacco; to be applied and recovered as in case of failure to register the birth of any child.

SEC. XVI. THE overseers of the poor shall keep a fair and exact register of the births and deaths which shall happen in their respective districts, of which they shall have notice according to the directions of this act, in which register shall be expressed and distinguished the names of the persons that shall be born free, and of their parents, and the names of the master or owner of the slaves which shall be born, and whether such slaves be male or female; and also a register of the persons dying, together with the names of the master or owner of the persons dying in slavery: A fair and true copy of which register, signed by the overseers respectively by whom it was taken, shall on or before the first day of April and the first day of October, annually, be returned to the clerks of the county courts; for the keeping and returning which register as above directed, there shall be paid and satisfied to the overseers of the poor who keep the same, three pounds of tobacco for every person so registered. The fee for registering the births of all free children shall be paid by the parents of such children, and the fee for registering the births of all slaves shall be paid by the owner of such slave; and the fee to be paid for registering the death of all free persons and slaves shall be paid by the master or owner of that family wherein the death shall happen: All which fees shall be collectable and distrainable in like manner as the fees due to the clerks of the county courts. And if any overseer of the poor shall neglect or refuse to keep such register, or to return it to the clerk of the county court as hereby required, he shall forfeit and pay two hundred pounds of tobacco for every month he shall be delinquent; to be applied and recovered as the other penalties of this act are to be applied and recovered.

SEC. XVII. THE clerks of the respective county courts shall in a book to be kept by each of them for that purpose, record all such registers returned to them so soon as the same shall be returned, for which they, respectively, shall be allowed the sum of annually, to be levied in the county levy.

SEC. XVIII. THE owner of every imported child being a servant or slave, and the parent or importer of every free male child, shall bring him or her before the court of the county wherein such child shall be resident, at the first, second or third court held after his or her importation, and the age of such child being then there adjudged by the court and recorded, shall be deemed and taken to be the true age thereof in respect to his or her becoming tithable; otherwise, every such child shall be immediately tithable although not sixteen years old. *

ALL acts, or parts of acts, coming within the purview of this act, shall be and are hereby repealed.

PROVIDED always, That nothing in this act shall be construed to affect any rights, remedies, fines forfeitures, penalties or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

A BILL reducing into one, the several Acts of Assembly, for the Inspection of Tobacco.

SECTION I. BE it enacted by the General Assembly, That no tobacco shall be shipped or exported from this commonwealth, unless the same shall be packed in hogheads or casks, taken from some public warehouse herein after mentioned, and received and inspected according to the directions of this act. May, 1783. ch. 10.

SEC. II. PUBLIC warehouses for the reception of tobacco pursuant to this act, shall be kept at the several places herein after mentioned, that is to say; in the county of Accomack at Pitt's landing, upon Pocomoke, at Guildford, and at Pungoteague, under one inspection; in the county of Caroline at Roy's; in the county of Charles City at Kennon's; in the county of Dinwiddie at Bolling's point, Bollingbrooke, and Cedar-Point; in the county of Essex at Hobb's Hole, at Bowler's, and at Layton's; in the county of Fairfax at Colchester, Alexandria, and the falls of Potowmac; in the county of Gloucester at Poropotank, and at Deacon's Neck; in the county of Hanover at Page's and Meriwether's; in the county of Chesterfield at Rocky-Ridge, Warwick, Osborne's, at John Bolling's(a), on the lands of Jacob Rubsaman, in the town of Manchester, to be called and known by the name of Manchester(b), on the lots of Alexander and Peterfield Trent, in the town of Manchester, distinguished in the plan thereof by the numbers 209, 210, 221, 222. to be called and known by the name of Trent's warehouse(c), and on those of Edward Johnson, deceased, in the said town, to be called and known by the name of Johnson's warehouse(d); in the county of Henrico at Byrd's, Shockoe, and at Rocket's; in the county of Isle of Wight at Smithfield, and at Fulgham's, under one inspection; in the county of King & Queen at Shepherd's, at Mantapike, and at Frazer's, in King William, under one inspection, and at Todd's, in King & Queen, and at Aylett's, in King William, under one inspection; in the county of King George at Boyd's-Hole, and Machodack, under one inspection, and at

a 1785 ch. 21.

b 1784 ch. 56.

c 1788 ch. 48.

d 1790 ch. 36.

* The committee could not discover any act of Assembly by which the mode of fixing the county levy was directed. They therefore conformed the bill to the present practice as near as they could in that respect. And in the section authorizing the court to appoint a collector of the levies, they made the bill to conform to the rules in the cases of levies for the poor, and public taxes, instead of making the sheriff in all cases the collector.

- a* Oct. 1783. Gibson's, to be called and known by the name of Gibson's warehouse(*a*); in the
 ch. 28. county of Lancaster at Davis's and Lowry's, under one inspection, and at Deep-
 creek and Glascock's, under one inspection; in the county of Northumberland at
b May. 1784. North and South Wicomico(*b*), under one inspection, at Coan's in the said county,
 ch. 24. and at Indian creek in the said county, and Dymmer's in the county of Lancaster,
 under one inspection; in the county of Middlesex at Urbanna, and at the place
c Oct. 1784. where Kemp's warehouses formerly stood up Pianketank river(*c*); in the county of
 ch. 56. Nansemond at Milner's, Suffolk(*d*), South-Quay(*e*), and Wilkinson's; in the coun-
d 1785 ch. 21. ty of Northampton at Cherrystone's, and Nafwaddox, under one inspection; in
e 1786 ch. 69. the county of New-Kent at Littlepage's, and the Brick-house; in the county of
 Prince George at Hood's(*f*), Boyd's, Davis's, and Blandford; in the county of
f Oct. 1784. Prince William at Quantico, Dumfries, a place called Rocks, on Quantico creek,
 ch. 56. to be called and known by the name of M'Rae's warehouse(*g*), and in the town of
g 1788 ch. 9. Newport, on the lots of Cuthbert Bullitt, to be called and known by the name of
h 1788 ch. 39. Bullitt's warehouse(*h*); in the county of Richmond at Cat-point, and Totuskee; in
 the county of Surry at Gray's creek, and Low point; in the county of Stafford
 at Falmouth, at Acquia, and at Dixon's; in the county of Spotsylvania at Frede-
 ricksburg, and at Roylston's; in the county of Warwick at Denbeigh; in the coun-
 ty of Westmoreland at Nomony, at Leed's, and Maddox, under one inspection; at
i 1785 ch. 21. Yeocomico and Kinsale(*i*), under one inspection; at the College landing in the
 county of James City, and at York-town in the county of York; at Hampton
 in the county of Elizabeth City; in the county of Botetourt on the lands of Wil-
 liam Crow, at Crow's ferry, to be called and known by the name of Crow's ware-
 house(*k*); in the county of Hampshire at the confluence of the north and south
 branches of the river Potowmac, on the lands of Thomas Cresap, to be called and
 known by the name of Cresap's warehouse(*l*), and in the town of Romney, to be
 called and known by the name of Romney warehouse(*m*); in the county of Camp-
 bell at Lynch's ferry, to be called and known by the name of Lynch's warehouse(*n*);
m 1790 ch. 36. in the county of Fluvanna at the Point of Fork on the lands of David Ross, to be
n 1785 ch. 22. called and known by the name of Rivanna warehouse; in the county of Amherst
 on the north side of James river, below Swan's creek, on the lands of Nicholas
 Cabell, to be called and known by the name of the Swan creek warehouse(*o*); in the
 county of Berkeley on the lands of Abraham Shepherd, near the town of Meck-
 lenburg, to be called and known by the name of Mecklenburg warehouse(*p*); on the
 lands of William Barksdale in the town of Petersburg, to be called and known by
 the name of Barksdale's warehouse(*q*); on the lands of Robert Bolling, junior, in
 the said town adjoining his present dwelling-house, to be called and known by the
 name of West-Hill warehouse(*r*); on the lands of Alexander G. Straghan, in High-
 street, in the said town, to be called and known by the name of High-street ware-
 house(*s*); on the lots of Thomas Shore and George Wilson, likewise in the said
 town, to be called and known by the name of West-brook warehouse(*t*); and on
 the lands of Elizabeth Spencer, Ann Swann Saunders, and Daniel Wooldridge,
 in the said town, to be called and known by the name of Peterburg warehouse(*u*);
u May 1784. in the county of Albemarle on the lands of Bennett Henderson, at the place called
 ch. 24. the Shallows on the Rivanna river, to be called and known by the name of Hen-
 derson's warehouse(*x*), and on the lands of Wilson Cary Nicholas, at the mouth of
x 1789 ch. 31. Ballenger's creek in the said county, to be called and known by the name of Nicho-
 las's warehouse(*y*); in the county of Monongalia at Morgan-town, to be called
 and known by the name of Morgan-town warehouse(*z*); in the county of Loudoun
 at the Great falls of the Potowmac, to be called and known by the name of the
 Great Falls warehouse(*a*); in the county of Cumberland on the lands of John
 Woodson, at Carter's ferry, to be called and known by the name of Woodson's
 warehouse(*b*); in the county of Norfolk on the lands of Thomas Veal, in the town
 of Portsmouth, to be called and known by the name of Portsmouth warehouse(*c*);
c Oct. 1784. in the county of Fairfax on the lands of William Thornton Alexander, in the town
 ch. 56. of Alexandria, to be called and known by the name of Thornton's(*d*); in the coun-
d 1787 ch. 49. ty of Southampton on the lands of Samuel Brown, on the south side of Nottoway
 river, to be called and known by the name of Nottoway(*e*); in the county of Am-
 herst on the lands of John Lynch, at his ferry, to be called and known by the
 name of Amherst warehouse(*f*); in the county of Halifax on the lands of Richard
 Booker, at Booker's ferry, on the Staunton river, to be called and known by the
 name of Booker's warehouse(*g*); in the county of Buckingham on the lands of John
 Horfeley, at the mouth of Bent creek, to be called and known by the name of
 Horfeley's warehouse(*h*)
h Ib. ib.

SEC. III. THE rents of the several warehouses hereby established, shall be,
 and they are hereby established at the following rates; at Pitt's and Guildford's,
 ten pounds; at Pungoteague, eight pounds; at Cherrystone's and Nafwaddox,
 eight pounds; at Hampton, ten pounds; at the College landing, ten pounds; and

at all the other warehouses there shall be allowed and paid for the rents for the same, one shilling and six pence for every hogthead of tobacco that already has been or shall be received, inspected, and delivered out of such warehouses respectively, except as herein after excepted. And there shall be paid to the proprietors of each warehouse, for all tobacco lying therein more than twelve months, at the rate of three pence per month for each hogthead, to be paid by the shipper thereof at the time of shipping the same. *Provided always,* That where wharves are or shall be necessary to be built or kept in repair at any of the said warehouses, and the rents hereby established are not sufficient for building and keeping in repair such wharves, or where any new warehouse shall hereafter be built, in pursuance of this act, and the rent hereby established shall not be proportionable to the expense of such building, in both the said cases such further allowance shall be made by the General Assembly, as shall be thought reasonable; and the rents aforesaid, together with the inspector's salaries, shall be paid and allowed by the treasurer to the several inspectors upon the passing their accounts, and the inspectors shall pay the rents to the persons entitled to receive the same, out of the money received by them for inspecting tobacco; and if the money received by the inspectors at any warehouse, shall not be sufficient to pay the salaries and rents aforesaid, and other incidental charges in this act mentioned, such deficiency shall be made good out of the general fund arising by the profits of the other warehouses; and if that shall prove deficient, then the said rents and charges, together with the inspectors salaries, shall be paid and satisfied out of any other public money in the hands of the treasurer for time being, not otherwise appropriated by law.

SEC. IV.. WHERE the warehouses are already built at any of the places herein before mentioned, and appointed for keeping the same, and are now made use of for public warehouses, the proprietors and owners of such warehouses shall be, and they are hereby obliged to let the same to the inspectors during the continuance of this act, at the rent hereby established for such warehouses respectively; and if any proprietor or owner shall refuse so to do, he shall forfeit and pay five hundred pounds; and where warehouses are not already built at any of the places aforesaid, or where any new warehouses shall be hereafter appointed to be kept at any other place, it shall be lawful for the justices of the court of that county wherein such place is or shall be, and they are hereby required, at the next court to be held for their county after such new warehouse shall be so appointed, to order and direct so many strong, close, and substantial houses, secured with strong doors, hung on iron hinges, and with strong locks or bolts, as will contain sufficient room for two thirds of the number of hogheads, which, in their opinion, will be annually brought to the same, and one brick square or funnel six feet high at least, and four feet diameter, with a proper arch at the bottom of the same, for burning tobacco refused and picked, at such warehouses, and such wharves and other conveniences as shall be necessary; and shall cause the owner or proprietor of the land where such warehouses are appointed to be kept, and if such owner or proprietor be under age, *feme covert*, or out of the country, then the guardian, husband or known attorney, or agent (as the case may be) of such owner or proprietor, to be summoned to appear before them at the next succeeding county court after such summons shall issue, there to declare whether they will undertake to erect and build such houses, funnel, wharves, and other conveniences, and let the same to the inspectors appointed to attend at such warehouses at the rent settled by this act, or which shall be hereafter settled for the same; and in case such owner, guardian, husband, known attorney, or agent will undertake the same, then the said court shall, and they are hereby required, to take bond with sufficient security, in a reasonable penalty, payable to the governor and his successors, to the use of the commonwealth, with condition for the due performance of such undertaking. And if such owner, guardian, husband, known attorney, or agent shall refuse to undertake the same, or give such bond as aforesaid, then it shall be lawful for the said justices, and they are hereby required, to value an acre of the said land, and to pay or tender to the proprietor, his or her guardian, husband, known attorney, or agent, the value thereof, which shall be repaid to the said justices by the public, and from thenceforth the justices of the county for the time being shall be seized in fee of the said land in trust, and for the use of the public, during the time the said place shall be made use of for a public warehouse; and the said justices shall agree with some person or persons to erect and build thereon such houses, funnels, wharves, and other conveniences, as is herein before directed, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby directed and required to pay the same out of the public money in his hands arising from the inspection of tobacco and shall take and receive of the inspectors the rent established at such warehouses for reimbursing the public the charge of such buildings, until the same shall be repaid with lawful inte-

rest. And where the justices of any county court or any other person or persons, have already built warehouses on lands of another person by virtue of, or in pursuance of the laws lately or now in force, the said justices or other person or persons, shall in like manner be seized in fee of the acre of land upon which such warehouses are built, so long as the said places respectively shall be made use of for public warehouses; but if any of the warehouses which are or shall be built by the public, the justices or other persons shall hereafter be discontinued, the proprietor of the land returning the price paid for the same with lawful interest, shall be thenceforth seized of his former estate.

SEC. V. THE inspectors at the several warehouses shall, at the court to be held for their respective counties in the month of September yearly, or at the next succeeding court, produce and render into court an exact account under their hands, of the number of hogheads of tobacco inspected at their respective warehouses the preceding year, and of the condition of the warehouses under their charge, and the quantity of tobacco they are capable of containing, and thereupon such court, if they shall not be satisfied that the warehouses already built at any of the said inspections are properly secured, and contain sufficient room for two thirds of the number of hogheads mentioned in such account to be conveniently stored, shall enter an order that the owner or proprietor of such warehouses shall, with such reasonable time as the said court shall think fit to allow, repair and make close the warehouses already built, and secure the same with strong doors hung on iron hinges, and with strong locks or bolts; and that such owner or proprietor shall also before the first day of April, in the ensuing year, erect, build, and completely finish, such and so many other strong, close, and substantial houses, as with the other houses already built, shall be sufficient, in the opinion of such court, conveniently to contain two thirds of the quantity of tobacco mentioned in such inspectors account, and secure the same in manner herein before directed; a copy of which order shall be served on such owner or proprietor, or his or her guardian, husband, attorney, or agent, (as the case may be) and if such owner or proprietor, his or her guardian, husband, attorney, or agent, shall fail to appear at the next succeeding court, after such notice, and enter into bond with sufficient security in a reasonable penalty, payable to the Governor for the time being and his successors, with a condition for the due performance of the same, then it shall be lawful for the said court, and they are hereby required, to cause such repairs and houses to be made and built as aforesaid, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby required to pay the same out of the public money in his hands arising from the inspection of tobacco, and shall take and receive from the inspectors the whole or a proportion of the rents established at such warehouses, for reimbursing the public the charge of such buildings and repairs, with interest thereon, which proportion shall be settled by the court, and by them certified to the treasurer; but if there shall appear to be an immediate occasion to hire houses before others can be built as aforesaid, the rent of such houses shall be paid by the public without any charge upon the landlord: *PROVIDED*, that where two or more inspections are established in one county within the distance of six miles, and that it shall be necessary to build more houses at any of them, the court shall direct the building such additional houses at such of the said inspections as to them shall seem most proper; and if there shall be in the whole sufficient house room according to the directions of this act, for two-thirds of the tobacco brought to such inspection, the court shall not direct the building other houses at any of them.

SEC. VI. IF any county court shall fail or refuse to do their duty in directing such houses, funnels, and wharves, and other necessary conveniences at the places established by this act for erecting new warehouses, or such additional buildings and repairs at the places where houses are already built, and causing the same to be built or made according to the directions of this act, every justice so failing or refusing, shall forfeit and pay thirty pounds; to be recovered in the General Court with costs, by action of debt or information against the justices jointly. *PROVIDED* always, that nothing herein contained shall be construed to give power to the said justices to take away the houses, orchards, or other immediate conveniences of any proprietors of lands, for the purposes aforesaid, nor to the said inspectors to keep any horses, cattle, or hogs, at any public warehouses, except their riding horses, upon the land appointed for such warehouses; and if any swine belonging to the said inspectors or any of them shall be found at large upon the land appropriated for such warehouses, or the lands adjoining thereto, it shall be lawful for the proprietors of the said lands to kill or cause to be killed or destroyed, all such swine. *PROVIDED* also, that where any warehouses have been or shall be built

by the justices or other persons as aforesaid, and the first proprietor of the land shall desire to have the same again, such proprietor, upon payment of so much money as shall be sufficient to reimburse the said justices or other person the principal money expended for the purchase of the land and the building such warehouses, with lawful interest, deducting the rents received by the said justices or other person, shall be restored to his former estate in the land whereon such warehouses are built, and shall receive the rents aforesaid growing due for such warehouses: *PROVIDED also*, that if any proprietor so as aforesaid restored to his estate, shall neglect or refuse to build and repair such houses and wharves as the court shall think necessary, the justices shall again be seized of the fee simple estate in such land during the time such place shall be made use of for a public warehouse, and such proprietor shall not have any benefit of the rents that shall hereafter become due.

SEC. VII. ON complaint being made by the owner or owners of any of the warehouses aforesaid, to any justice of the peace in the county where such warehouse shall lie, against any person or persons for breaking, tearing, or committing any waste or destruction of, or in such warehouse or warehouses, it shall be lawful for such justice, and he is hereby empowered and required to give judgment and award execution against the body or estate of such offender if found guilty, for all damages occasioned by such breaking, tearing, or waste, or destruction, provided such damages do not exceed the sum of twenty five shillings in his opinion; and if such damages shall exceed that sum, then it shall be lawful for such owner or owners to commence and prosecute his or their action at law against any such offender in any court of record within this state, in which the plaintiff shall recover costs, although the damage shall be under forty shillings.

SEC. VIII. THERE shall be kept at every one of the said warehouses herein before appointed, and at all others hereafter to be appointed, a good and sufficient pair of scales with weights to weigh fifteen hundred pounds at the least, and a set of small weights the same that are or ought to be provided for the standard weights of each county; and where such scales and weights are not already provided, or now are or shall hereafter be worn out or become unfit for use, the justices of the respective county courts wherein any of the said warehouses are or shall be, are hereby directed and required to provide the same with all convenient speed; and the treasurer for the time being is hereby empowered and required to pay the purchase money out of the public money in his hands arising from the inspection of tobacco; and moreover the said justices are hereby required and directed, twice in every year at least, to appoint one or more of their number to view the said scales, and examine and try the weights at the several warehouses by the standard weights of the county; and if the said scales and weights shall want repairing, or the weights be found deficient or differing from the lawful standard, the said justices shall cause the same to be repaired and mended, and the weights made conformable to the standard; and if the justice or justices so appointed shall refuse or neglect to do the same, the justice or justices so refusing shall forfeit and pay the sum of fifty pounds; and the charge of repairing and mending the said scales and weights, and also for removing the standard to the several warehouses for trying the same, shall be paid by the inspectors respectively, and be again allowed to them in their accounts with the treasurer.

SEC. IX. ALL tobacco which shall be brought to any of the public warehouses shall be viewed, inspected and examined, by two persons to be thereunto appointed, who shall be called inspectors, which said inspectors shall be appointed in the following manner, that is to say: The courts of the several counties within this state, wherein any of the public warehouses appointed by this act are established, shall, and they are hereby required, once in every year, and no oftner, at their respective county courts held in the months of August or September, to nominate and recommend to the Governor for the time being, for so many offices of inspection as are or shall be in their respective counties, four fit and able persons reputed to be skilful in tobacco, for the execution of the office of inspectors; and where two warehouses under one and the same inspection happen to lie in different counties, in that case the court of each county shall nominate and recommend two for such inspection, which nomination the said courts shall cause to be entered upon record, and the clerks of the said courts shall, and they are hereby required forthwith to transmit a certificate of the same to the clerk of the council; and out of the said four persons nominated and recommended for each inspection, the Governor, with advice and consent of Council, shall choose and appoint two to execute the office of inspectors at such inspec-

tion; and in default of such nomination or recommendation by the county courts as aforesaid, the Governor with the like advice and consent shall appoint such persons as he shall think fit to be inspectors at such inspection, for which no nomination or recommendation shall be made as aforesaid, and also in case of the death, resignation, or removal of any inspector, the Governor shall and may appoint any person named in the last recommendation from the county court for that inspection where the vacancy shall happen, to succeed him until the next nomination and appointment of inspectors; but if either of the persons named in such last recommendation, will not accept the said office, in that case the Governor, with the advice and consent of the Council, may appoint any other person they shall think fit; and besides the two inspectors appointed as aforesaid, the Governor for the time being, with the advice of the Council, shall appoint one of the persons recommended with such inspectors to be additional inspector at the warehouse for which he shall be recommended; which additional inspector shall officiate as such only in cases of disagreement in opinion of the other inspectors as to the quality of tobacco brought to their inspection, or where either of them shall through sickness or otherwise, be absent from his duty, or shall bring his own tobacco to the warehouse whereof he is inspector, to be viewed; and the said additional inspector shall be paid for the services he shall perform, by occasion of the absence of either of the other inspectors, out of the salary of such absentee, in proportion to the time he shall officiate.

SEC. X. IF any inspector shall hereafter accept, receive, or take, directly or indirectly, any fee, gratuity, service or reward whatsoever, of any person for resigning or giving up his office of inspector, he shall not only be forever disabled from holding the like office, but for such offence shall forfeit and pay the sum of two hundred pounds; to be recovered with costs, by action of debt, in any court of record within this state, by any person suing for the same; and every person offering or paying, directly or indirectly, any fee, service, gratuity, or reward whatsoever, to any inspector to resign his said office, shall, for the said offence, be forever disabled from holding the office of inspector within this state. *Provided always*, That no justice of the peace being an inspector, or recommended to be an inspector, shall be allowed to vote in nomination and recommendation of persons to be inspectors as aforesaid, and where any person once recommended as aforesaid, and executing the office of inspector in pursuance of such recommendation, shall be again recommended the succeeding year, the same shall be a sufficient appointment to him to continue in the said office for another year [without any new commission, and so from year to year, so long as he shall be so recommended as aforesaid.

SEC. XI. EVERY person appointed or to be appointed inspector by virtue of this act, shall, before he enters upon the execution of the said office, enter into bond with good security, in the penalty of one thousand pounds, payable to the Governor for the time being, and his successors, with condition for the true and faithful performance of his duty, according to the directions of this act, which bond shall be recorded in the county, and transmitted by the clerk of the court to the treasurer, under the penalty of one hundred pounds, who shall move for judgment against every inspector failing to discharge the same within two months after failure, under the penalty of one hundred pounds; and every such inspector shall also take the following oath, at the time he gives bond, that is to say: "You shall swear that you will
 " diligently and carefully view and examine all tobacco brought to the public
 " warehouse or warehouses where you are appointed inspector, and that not separately and apart from your fellow, but in his presence; and that you will not receive or pass any tobacco that is not in your judgment sound, well conditioned, merchantable, and clear of trash; nor receive, pass, or stamp any tobacco hogsheads or casks of tobacco, contrary to the true intent and meaning of this act, nor refuse any tobacco that in your judgment is sound, well conditioned, merchantable, and clear of trash; and that you will not change, alter or give out any tobacco other than such hogsheads or casks for which the receipt to be taken was given, but that you will in all things well and faithfully discharge your duty in the office of inspector, according to the best of your skill and judgment, and according to the directions of this act, without fear, favor, affection, malice, or partiality: SO HELP YOU GOD." Which oath shall be taken before the Governor of this state for the time being, before the General Court, or in the court of the county wherein such inspector shall reside, or the warehouses at which he shall be appointed inspector shall stand: but before any inspector shall enter upon the execution of his office, he shall produce a certificate, if sworn before the Governor or General Court (as the case may be) of his having taken such oath,

which certificate shall be lodged with the clerk of the county where such inspector shall be; and if any person shall presume to execute the office of inspector, before he shall have given such bond and taken such oath as aforesaid, he shall forfeit and pay five hundred pounds.

SEC. XII. ALL inspectors to be appointed by virtue of this act, shall constantly attend their duty at the warehouse or warehouses under their charge, from the first day of October to the tenth day of August, yearly, except Sundays, and the holy days observed at Christmas, Easter, and Whitsuntide, or when hindered by sickness; and afterwards they or one of them shall constantly attend at the same, except on Sundays, to deliver out tobacco for exportation, until all the tobacco remaining there the said tenth day of August, shall be delivered: but no inspector shall be obliged to view any tobacco between the said tenth day of August and the said first day of October, except such as remained in the warehouse on the said tenth day of August; and every inspector neglecting to attend as aforesaid, shall forfeit and pay to the party grieved, five shillings for every neglect, or shall be liable to an action upon the case, at the suit of the party grieved, to recover all such damages as he or they shall have sustained by occasion of any such neglect, together with his or their full costs, at the election of such party. And that all persons having tobacco at the public warehouses, may have equal justice, the inspectors shall enter in a book to be kept for that purpose, the marks and owner's names of all tobacco brought to their respective warehouses for inspection as the same shall be brought in, and shall view and inspect the same in due turn as it shall be entered in such book, without favor or partiality; and shall uncase and break every hoghead or cask of tobacco brought them to be inspected as aforesaid; and if they shall agree that the same is good, sound, well conditioned, merchantable, and clear of trash, then such tobacco shall be weighed in scales with weights of the lawful standard, and the hoghead or cask shall be stamped in the presence of the said inspectors or one of them, with the name of the warehouse at which inspected, and also the tare of the hoghead or cask, and quantity of nett tobacco therein contained; and the inspectors at such warehouses shall issue a receipt for each hoghead of tobacco they shall pass, if required by the owner; which receipt shall be in the form following, to wit:

River,		day of	RECEIVED of , hogheads of crop Tobacco, marks, numbers, weights and species, as per margin; to be delivered by us to the said or his order, for ex- portation when de- manded. Witness our hands.
Warehouse, the			
, 17			
Sweet Scented.		Oronoko.	
Leaf.	Stemmed.	Leaf.	
Marks. No. Grofs. Tare. Nett.	Grofs. Tare. Nett.	Grofs. Tare. Nett.	

AND no inspector or inspectors shall, under any pretence whatsoever, issue a receipt for any tobacco other than such as shall be printed, in which the date shall be inserted at full length. And if any inspector or inspectors, shall presume to issue a receipt in any other manner than is hereby expressed, he or they, for every such offence, shall forfeit and pay the sum of one hundred pounds; to be recovered with costs, by any person who may sue for the same, in any court of record within this state: Which receipts as aforesaid, shall be furnished by the public printer, and at the public expense: but if the said two inspectors shall at any time disagree concerning the quality of any tobacco brought for their inspection to any warehouse under their charge, they shall as soon as conveniently may be, call in the additional inspector appointed to attend such warehouse, who shall determine, and pass or reject such tobacco; and if he shall pass the same, his name shall be entered in a book kept by the inspectors, opposite the mark, number, and weight of the hoghead by him passed, together with the name of the inspector at such warehouse who shall officiate with him. And the inspectors at each of the warehouses established by this act, shall constantly keep so many able hands at their respective warehouses, not exceeding two, as the courts of the several counties wherein they lie, shall from time to time judge necessary, and direct for the purpose of taking care of all tobacco brought to such warehouse, and stowing it away after the same shall be inspected and stamped. And no inspector shall by himself, his servant, or any other person, either directly or indirectly, be concerned in

picking any refused tobacco, unless it be his own property, on any pretence whatsoever, under the penalty of being forever thereafter disabled from holding the office of inspector.

SEC. XIII. WHEN any tobacco shall be refused by the inspectors, the proprietor thereof shall be at liberty to separate the good from the bad ; but if he refuses or neglects so to do within one month of such refusal, the inspectors shall employ one of the pickers attending the warehouse to pick and separate such refused tobacco, and give the owner credit for so much thereof as shall be found merchantable, after paying the pickers one fifteenth part of the quantity saved, and the inspectors shall cause the tobacco which shall by them be judged unfit to pass, to be burned in the brick funnel, erected or to be erected at such warehouse, under the penalty of forty shillings for every failure, to the informer ; recoverable with costs, before any justice of the county wherein such warehouse shall be.

SEC. XIV. AND whereas it has been found that many persons attending the warehouses under the denomination of tobacco pickers, have been found guilty of great frauds, impositions, and abuses therein : For remedy whereof, *Be it enacted*, that the courts of the several counties wherein any of the public warehouses appointed by this act are established, shall, and they are hereby required, to nominate and appoint from time to time, such and so many persons as to them shall seem necessary, who are willing to undertake the same, to attend the several warehouses within this state, to turn up, sort, separate, and pick such tobacco as shall be refused by the inspectors. And every person so appointed a picker shall make oath before the court at the time of his appointment, or at the next succeeding court, that he will carefully and diligently, without fraud or embezzlement, sort and separate all such tobacco as shall be refused by the inspectors, and the owner or proprietor thereof, or the inspectors, shall employ him to pick ; and every picker of tobacco shall be allowed to demand and receive from the respective proprietors, one shilling and three pence per hoghead for opening, and one fifteenth part of all the tobacco saved out of any refused hoghead by him picked, for his services in opening, sorting, and picking the same, and no more. And no picker of tobacco shall keep or employ any negro or mulatto slave at any public warehouse, on any pretence whatever ; nor shall any picker presume to hinder any person who may choose to open their own tobacco, or to pick what may be refused by the inspectors, from the free use of the picking house and prize, for the convenience of picking or prizing the same. And if any picker shall misbehave himself in his said office, it shall and may be lawful for the court of the county where such picker shall be appointed, on complaint and motion to them made to remove such picker from his said office, and to appoint another person to act in his room, if to them it shall seem necessary ; and every picker so removed shall forever after be rendered incapable of serving as picker at any public warehouse ; provided such picker hath ten days previous notice of such motion ; and any person who shall be aggrieved by any such misbehaviour in a picker, may make complaint thereof to any justice of the peace who is hereby empowered and directed to take depositions therein, provided such picker have notice thereof, and to transmit the same to the next court to be held for the county where the offence shall be committed, to be there given in evidence on the examination into such misbehaviour. And if any person not being appointed and sworn as aforesaid, shall presume to undertake the opening, sorting, picking, or separating any such tobacco for hire or reward, every person so offending shall forfeit and pay twenty shillings for every such offence ; to be recovered by the informer to his own use, before any justice of the peace. *Provided*, that any proprietor of tobacco, who may choose to open, pick and prize his own tobacco, may employ his own servants or slaves, or any other person or persons, other than the hands kept by the inspectors, to assist him in opening, picking, or prizing the same, and the person or persons so employed, shall not incur or be subject to the last mentioned or any other penalty or forfeiture for so doing ; and the inspectors shall issue receipts for all tobacco saved by picking to the proprietors only of such tobacco, and not to the pickers of the same. And the inspectors shall not suffer or permit any picker to prize up any tobacco that he shall have saved by picking, for his own use. And if any tobacco picked in any hoghead or cask by an overseer, or the hands under his care, shall be burnt by the inspectors by reason of its being bad, unsound, or not in good condition, the overseer who had the care of making and packing the same, shall be at the loss of the tobacco so burnt, and make satisfaction for the same out of his share of the crop, or otherwise ; and the inspectors shall be obliged to keep an account of all tobacco so burnt.

SEC. XV. IF any inspector of tobacco shall in any manner be concerned as a partner with, or receive from, any picker of tobacco, money or any gratuity, every inspector herein offending, on conviction before any court of record, shall forfeit and pay five hundred pounds to the prosecutor, to be recovered by action of debt with costs; and shall moreover be rendered incapable of serving as an inspector. Every picker who shall be concerned as above with an inspector, or who shall demand, take, or receive, any greater fee or reward for his services other than by law allowed, shall forfeit and pay on conviction, to the person prosecuting, one hundred pounds, to be recovered in like manner, and shall forever after be incapable of acting in any character at a public warehouse. Oa. 1784.
ch. 85.

SEC. XVI. WHERE any tobacco shall be brought to any of the said warehouses for the discharge of any public or private debt or contract, the said inspectors or one of them, after they have viewed, examined, and weighed the said tobacco according to the directions of this act, shall be obliged to deliver to the person bringing the same, as many receipts under the hands of the said inspectors, as shall be required for the full quantity of tobacco received by them, in which shall be expressed whether the tobacco, so received be sweet-scented or Oronoko, stemmed or leaf; which receipt shall be in the form following, to wit: “

“ River, number , warehouse, the
“ day of , 17 . Received of
“ pounds of transfer tobacco, to be delivered on demand to him, or to his or-
“ der, according to the directions of the act, intituled, *An act for mending the sta-
“ ple of tobacco, and preventing fraud.* Witness our hands.”

And shall bear date the day the tobacco for which the same is given shall be received and passed, and shall be current in all tobacco payments, according to the species expressed in the receipt, within the county wherein such inspectors shall officiate, and in any other county next adjacent thereto, and not separate therefrom by any of the great rivers or bay, herein after mentioned, that is to say: James River below the mouth of Appamattox; York below Westpoint; Rappahannoc below Taliaferro's mount or by the bay of Chesapeake; and shall be transferable from one to another in all such payments, except as herein is excepted, and shall be paid and satisfied by the inspector or inspectors who signed the same, upon demand. And for every hoghead of tobacco brought to any public warehouse and transferred, there shall be allowed by the inspectors thereof, to the person bringing the same, after the rate of four pounds of tobacco for every hundred pounds of tobacco the said hoghead shall contain, for the cask, so as such allowance do not exceed thirty pounds of tobacco, provided the cask or hoghead is good, and of such dimensions as is herein after expressed; and the said inspectors shall, and they are hereby obliged, to make every hoghead by them paid away in discharge of any receipt by them given as aforesaid, to contain one thousand pounds of nett tobacco at the least; and for every hoghead of tobacco by them paid away, well lined and nailed, fit for shipping, there shall be paid by the person shipping such hoghead six shillings for inspection, and three shillings and six pence for prizing and nails; which said sum of three shillings and six pence, the inspectors may retain in their hands for their own use, to reimburse them the expence and trouble of providing nails and prizing. And the person demanding or receiving tobacco in discharge of receipts as aforesaid, shall allow to the inspectors thirty pounds of tobacco for each hoghead so received, for the cask, and two pounds of tobacco for every hundred pounds of tobacco contained in such receipts, and so in proportion for a greater or lesser quantity, for shrinkage and wasting, if the said tobacco be paid within two months after the date of the receipt given for the same, and one pound of tobacco for every hundred, for every month the same shall be unpaid after the said allowance; so as such allowance for shrinkage and wasting do not exceed in the whole six pounds of tobacco for every hundred. And if any inspector or inspectors by whom any such receipts for tobacco as aforesaid shall be signed, shall refuse or delay to pay and satisfy the same when demanded, every inspector so refusing or delaying shall forfeit and pay to the party injured double the tobacco so refused or delayed to be paid, to be recovered with costs in any court of record within this state, if the receipt or receipts so refused or delayed to be paid, exceed two hundred pounds of tobacco; and if the said receipt or receipts do not exceed two hundred pounds of tobacco, the double value aforesaid shall and may be recovered before any justice of the peace of the county wherein the warehouse shall be, at which the receipt or receipts ought to be paid.

SEC. XVII. ALL tobacco brought to any of the said warehouses in hogheads, May 1781.
to be exported on account, and for the use of the owner thereof, after the same ch. 10. s. 19.

shall have been received, examined, found to be good, and weighed, shall be stamped as herein before directed; and the said inspectors, or one of them, shall deliver to the person bringing the same, as many receipts, signed as aforesaid, as shall be required for the number of hogheads so brought and stamped, in which shall be expressed whether the tobacco so received, be sweet scented or Oronoko, stemmed or leaf, and whether the same be tied up in bundles or not; and where any hoghead hath part leaf and part stemmed, shall signify the same at the bottom of the receipt; and they shall not mix stemmed and leaf tobacco in any hoghead which they shall prize, and pay away in discharge of their transfer receipts: And for every hoghead brought to any of the said warehouses to be exported by land or by water out of this state, there shall be paid to the inspectors attending at such warehouses, by the exporter, at the time of demanding the same for exportation, the sum of six shillings; and the owners of the tobacco shall find and provide nails sufficient for securing and nailing thereof; and where they shall fail so to do, the inspectors at such warehouse shall furnish nails for the purpose aforesaid, and shall be allowed and paid by the owner, eight pence for each hoghead so secured. And if any inspector or inspectors, shall alter, change, or deliver out, any hoghead of tobacco, other than the hoghead for which the receipt for crop tobacco to be taken in, was by him or them given; or shall alter or change any such tobacco, although no such receipt shall have been given, such inspector or inspectors shall forfeit and pay fifty pounds for every hoghead so altered, changed, or delivered out. And if any inspector shall fail or refuse to deliver any hoghead of tobacco when the same shall be demanded for exportation, such inspectors shall forfeit and pay to the owner thereof, double the value of the tobacco which they shall so refuse or fail to deliver. And all inspectors shall, and they are hereby obliged, if required, to take in any receipt or receipts by them given for crop tobacco; and after having weighed such tobacco, to give transfer receipts for the same, with an allowance of four *per centum* for the cask, so as such allowance do not exceed thirty pounds of tobacco for every cask. *Provided*, that such hoghead shall contain at least one thousand pounds of nett tobacco, and not mixed leaf and stemmed. *Provided nevertheless*, that no inspectors shall give their receipt or receipts for any transfer or crop tobacco, which shall be opened or picked, by any picker legally appointed, until the proprietor of such tobacco, or his or her agent, shall have first paid or tendered to such picker his lawful charges for opening or picking the same. And in the absence of any such picker, a payment or tender to any of the inspectors there attending, for the use of the picker, shall be as effectual as if made to such picker in person. And if any inspectors shall deliver their receipt or receipts for any such tobacco, so opened or picked, before such payment or tender be made, they shall be liable to such picker for the amount of the same.

May 1783 ch.
10. s. 20.

SEC. XVIII. AND for restraining the undue practice of mixing trash with stemmed tobacco, and preventing the packing of tobacco in unsizable casks, *Be it enacted*, That all stemmed tobacco not laid straight, whether the same be packed, loose, or in bundles, shall be accounted unlawful tobacco; and that no tobacco, packed in hogheads which exceed forty-eight inches in the length of the stave, or thirty inches at the head, within the crow, making reasonable allowance for prizing, which allowance shall not exceed two inches above the gauge, in the prizing head, shall be passed or received; but the owner of such tobacco, packed in casks of greater dimensions than before expressed, shall be obliged to repack the same in sizable casks, at his own charge, before the same shall be received or stamped by the inspectors.

Ib. ib. s. 21.

SEC. XIX. AND whereas many and great inconveniencies have arisen from inspectors undertaking to deliver tobacco, the property of others, in their warehouses, without order from the proprietors of the same; *Be it enacted*, That if any inspector shall presume to deliver any tobacco in his warehouse without order from the owner or proprietor of such tobacco, every inspector so offending, and being thereof duly convicted in the court of the county wherein he officiates, is declared incapable of serving forever after as an inspector in this state, and moreover shall be liable to the penalty of fifty pounds for every hoghead of tobacco so as aforesaid delivered without order of the owner or proprietor thereof; to be recovered by such owner or proprietor thereof, if he or she shall prosecute within four months after the offence committed; or if he or she decline the prosecution, then after that time, by any person who shall inform or sue for the same, by action of debt or information, in any court of record within this commonwealth. And if any inspector shall deliver any transfer receipts or notes of credit for tobacco to any person or persons, unless at the time of delivering the same, he shall have ac-

tually and *bona fide* received and passed tobacco, the property of him, her, or them in whose name or names such receipts or notes shall be made out, to the full amount of the quantity therein specified, every inspector so offending, and being duly convicted, shall be disabled from serving as an inspector, and moreover shall forfeit five pounds for every hundred weight of tobacco such fictitious notes shall express, to any person who will sue for the same; recoverable by action of debt, in any court of record. And for every prosecution against any inspector or inspectors for the said offence, the proof of his or their innocence shall lie upon the defendant.

SEC. XX. THE owners of any transfer receipts may, at any time before May, 1783. the sale of the tobacco contained in such transfer receipts, as herein after is directed, receive and mark hogheads of tobacco to satisfy such receipts; and the inspectors shall take in their former receipts, and deliver crop receipts for such hogheads, and shall be answerable for the safe keeping thereof in the same manner as they are for crop tobacco; but the persons receiving such hoghead shall pay to the inspectors nine shillings and six pence for the inspection and nails for every hoghead, that is to say, three shillings and six pence down to the inspectors for their own use for nails and their trouble in prizing, and six shillings as inspection when the tobacco is delivered. And the inspectors shall, at the court held for their county in the month of September, yearly, or if there be no court in that month, then at the next court held for their county, lay before the court an account, upon oath, of all transfer receipts that were not by them taken in and received before the time of sale herein before mentioned; and after such account exhibited and oath made, shall sell the tobacco in such receipts contained, deducting the allowance for shrinkage and waisting, at public auction, at the door of the courthouse, between the hours of twelve and two; and the inspectors shall pay the money arising by such sale in satisfaction of their receipts from time to time to the proprietors thereof, making their demand, under the same penalty as is inflicted for not paying inspectors receipts. And all inspectors shall keep a just and true account of the tobacco gained or saved upon the allowance made for cask and for shrinkage, and for transfer tobacco, or otherwise; and if any tobacco shall be so gained or saved, shall exhibit an account thereof, and shall also sell the tobacco so gained and saved, in the manner as is directed for the sale of transfer tobacco, and shall account for the money arising by such sale to the treasurer of this state for the time being, in their next account with him; and the said treasurer shall account for the same to the General Assembly; and no inspector shall convert any tobacco so gained to his own use.

SEC. XXI. ALL inspectors shall before the tenth day of October in every year, account with the treasurer of this state, upon oath, for all monies received, or which ought to be received by them, by virtue of this act, except the money paid for nails and for their trouble in prizing, or for repacking damaged tobacco, which shall be relanded at their inspection, for every hoghead of transfer tobacco; in which account they shall be allowed their salaries, the rents of the warehouses, and all other necessary disbursements in pursuance of this act. And in order to ease the inspectors giving their personal attendance at the treasury, they are hereby required, after stating their accounts with the treasurer, as above directed, to take the following oath before some one justice of the peace of the county where they officiate, to wit; "we A. B. and C. D. do swear, that the account now produced contains an exact state of all the tobacco shipped the preceding year from
" warehouse, all taxes received, or due for the same, also all tobacco gained at the
" said inspection by any means whatsoever. So help us God." And the justice of the peace before whom they are sworn, shall, and he is hereby required, to certify on the said account that they have taken this oath.

SEC. XXII. THE several inspectors of tobacco in this state shall, annually, at the time of settling their accounts with the treasurer, deliver to him an account, upon oath, of all the tobacco shipped from their respective warehouses within the year preceding, containing the number of hogheads or casks sent on board each ship or vessel respectively; and every inspector failing herein, shall forfeit and pay the sum of fifty pounds. And if any justice of the peace shall know, or be informed upon oath, of any tobacco pressed or packed, in order to be shipped off or carried out of this state by water, without being inspected, such justice by himself, or any sheriffs or constables, by warrant from such justice, within the limits of his

May 1783.
ch. 10. s. 24.

county, shall have power and authority, and is hereby required to enter any suspected houses, and to break open all doors in the day time, the keys of such doors having been first demanded and refused to be delivered, to search for the same; and if any tobacco shall be found by such justice, sheriff, or constable, pressed in any hogthead, cask, barrel, or other package whatsoever, such justice, sheriff, or constable, shall seize the same, and the person in whose possession such tobacco shall be found, shall forfeit to the informer five pounds for every hundred weight, and so in proportion for a less quantity; to be recovered with costs in any court of record, if it be twenty five shillings or upwards. And any justice of the peace of any county near the place where any ship or other vessel shall ride, upon information to him made upon oath, by any free man, that there is good cause to suspect any tobacco uninspected, in cask, bulk, or parcels, to be on board such ship or other vessel, shall, and he is hereby empowered and required to issue his warrant directed to the sheriff, or any constable of his county; and the sheriff or constable shall have full power and authority, and he is hereby required to enter and go on board of such ship, or other vessel, to search for, and seize such tobacco, and the same being seized, shall be brought on shore and carried before the same, or any other justice, who shall cause the said tobacco to be carried to the nearest warehouse, and there inspected, and if passed, restored to the owner, in case he shall be innocent of the fraud; but if he shall appear to have been concerned in such fraud, or if no owner shall claim within three months, the said tobacco shall be sold by the inspectors, and the money arising from such sale be paid into the public treasury, and accounted for to the General Assembly. And the commanding officer, or skipper of any ship or vessel, on board which such tobacco is found, shall forfeit to the informer five pounds for every hundred weight, and so in proportion for a less quantity; to be recovered with costs, in any court of record, if it be twenty five shillings or more. And if any master or commanding officer, or skipper of any ship or vessel, or any other person whatsoever, shall resist the officer in the execution of any such warrant, every such master, commanding officer, or skipper, shall forfeit and pay two hundred pounds; and every sailor, or other person so resisting, shall forfeit and pay twenty five pounds. And if any action shall be brought against any justice of the peace, sheriff, or constable, for doing any thing in execution of this act, the defendant may plead the general issue, and give this act in evidence; and if the plaintiff shall be non-suited, or a verdict pass against him, or a judgment on demurrer, the defendant shall recover double costs.

Ib. ib s. 25.

SEC. XXIII. WHERE any tobacco hath remained, or shall hereafter remain undemanded in a public warehouse two years after the same hath been or shall be inspected, the inspectors shall advertise in the Virginia Gazette for three weeks successively, a list of the marks, numbers, and weights of such tobacco, with the names of the persons for whom it was inspected; and if no owner appears to claim the same within three months, they shall at the next court to be held for the county in which such warehouse shall be, after the expiration thereof, and advertising as aforesaid, deliver to the court the like list, which court is hereby empowered and required, to order the same to be publicly sold at the court house door, on a court day, to the highest bidder; and the money arising from the sale thereof, shall be paid by the inspectors to the treasurer of this state for the time being, who shall account for the same, from time to time, to the General Assembly. And if any person, having a right to any tobacco so sold, shall prove his property therein, the said treasurer shall repay to such person the money for which such tobacco was sold.

Ib. ib. s. 26.

SEC. XXIV. NO person taking upon himself the office of inspector, shall, during his continuance in that office, or within two years after he shall be out of his said office, be capable of being elected a member of either house of assembly, or shall presume to intermeddle, or concern himself with an election of a member or members of either of the said houses, otherwise than by giving his vote, or shall endeavour to influence any person or persons in giving his or their vote, under the penalty of fifty pounds for every offence; nor shall any inspector by himself, or any person for him, be allowed to keep an ordinary or house of entertainment at or near the warehouse where he is an inspector; and every inspector herein offending, shall be incapable of serving in that office; neither shall any inspector during his continuance, be, or undertake to be a sheriff, justice of the peace, collector of any public tax, other than what relates to such office, county levies, or poor rates, or any officer's fees; nor shall directly or indirectly for himself, or for any other person, buy or receive by way of barter, loan, or exchange, any tobacco whatsoever, under the penalty of fifty shillings for every hundred weight of tobacco so bought or received. *Provided*, that nothing herein contained, shall be construed to hinder

1787. ch. 49.
s. 7.

any inspector from receiving his rents in tobacco, which shall be first viewed, examined, and stamped according to the directions of this act.

SEC. XXV. AND for the further and better direction of the inspectors aforesaid in their duty, *Be it enacted*, That no inspector shall take, accept, or receive, directly or indirectly, any gratuity, fee, or reward, for any thing by him to be done in pursuance of this act, other than his salary, and the other payments and allowances hereinbefore mentioned and expressed; and if any inspector shall take, accept, or receive any such gratuity, fee, or reward, such inspector being thereof convicted, shall forfeit and pay the sum of one hundred pounds; to be recovered with costs, by any person or persons who shall inform and sue for the same, by action of debt, or information in any court of record within this commonwealth, and moreover shall be disabled from holding the office of inspector during the continuance of this act. And if any person shall offer any bribe, reward, or gratuity, to any inspector for any thing by him to be done in pursuance of this act, other than the fees and allowances herein before directed, every person so offending, and being thereof convicted, shall, for every such offence, forfeit and pay the sum of twenty pounds current money, to be recovered in any court of record within this state; one half of which forfeiture shall be to and for the use of such inspector refusing such bribe or reward, and the other half to the person who will inform and sue for the same. And there shall be paid to each of the inspectors appointed to attend, and attending the said several warehouses, the salaries herein after mentioned; that is to say: At Pitt's, Guildford, and Pungoteague, under one inspection, thirty-five pounds; at Roy's, sixty pounds; at Kennon's, thirty pounds; at Bolling's Point, eighty pounds; at Bolingbrook's, eighty pounds; at Cedar point, eighty pounds, if the warehouses shall be rebuilt and inspectors appointed; at Hobb's Hole, thirty-five pounds; at Bowler's, thirty pounds; at Layton's, thirty pounds; at Colchester, fifty pounds; at Alexandria, sixty pounds; (a) at the Falls of Potowmac, forty pounds; at Poropotank, thirty pounds; at Deacon's neck, thirty pounds; at Page's, eighty pounds; at Meriwether's, sixty pounds; at Rocky Ridge, eighty pounds; at Warwick, seventy pounds; at Osborne's, sixty pounds; at John Bolling's, seventy pounds (b); at Manchester warehouse, sixty pounds (c); at Trent's warehouse, sixty pounds (d); at Johnson's, sixty pounds (e); at Byrd's, eighty pounds; at Shockoe, eighty pounds; at Rockett's, eighty pounds; at Smithfield and Fulgham's, under one inspection, thirty five pounds; at Shepherd's, thirty pounds; at Mantapike and Frazer's, under one inspection, forty pounds; at Todd's and Aylett's, under one inspection, forty pounds; at Boyd's hole and Machadock, under one inspection, forty-five pounds; at Gibson's, thirty pounds; at Davis's and Lowry's, under one inspection, thirty pounds; at Deep creek and Glasscock's, under one inspection, thirty-five pounds; at North and South Wicomico, under one inspection, forty pounds (f); at Coan's, thirty-five pounds (g); at Indian creek and Dymers, under one inspection, thirty pounds (g); at Urbanna, thirty pounds; at Kemp's (h) warehouse, on Pianketank, fifteen pounds; at Milner's, ; at Suffolk (i), twenty-five pounds; at South Quay, twenty-five pounds (k); at Wilkinson's, pounds; at Cherrystone's and Naswaddox, under one inspection, thirty-five pounds; at Littlepage's, thirty-five pounds; at the Brick-house, thirty pounds; at Hood's, thirty pounds (l); at Boyd's, eighty pounds; at Davis's, eighty pounds; at Blandford, eighty pounds; at Quantico, seventy pounds; at Dumfries, seventy pounds; at M'Rae's, sixty pounds (m); at Bullitt's, fifty pounds (n); at Cat point, thirty pounds; at Totuskee, thirty pounds; at Gray's creek, thirty-five pounds; at Low point, forty pounds; at Falmouth, sixty pounds; at Acquia, fifty pounds; at Dixon's, sixty pounds; at Fredericksburg, seventy pounds; at Roylton's, seventy pounds; at Denbigh, twenty-five pounds; at Nomony, thirty pounds; at Leed's and Mattox, under one inspection, fifty pounds; at Yeocomico and Kinsale, under one inspection, forty pounds; at the College landing, twenty-five pounds; at York Town, twenty-five pounds; at Hampton, fifteen pounds (o); at Crow's warehouse, and at Cresap's, the inspector's shall receive for each hoghead by them inspected, the sum of four shillings; one shilling whereof shall be paid to the proprietor for the rent of the warehouse, and the residue for their own use (p); at Romney, fifteen pounds (q); at Lynch's, forty pounds (r); at Rivanna, forty pounds (r); at Swan creek, forty pounds (s); at Mecklenburg, thirty pounds (t); at Barkisdale's, sixty pounds (u); at West-hill, sixty pounds (u); at High street, sixty pounds (u); at West brook, sixty pounds (u); at Petersburg, sixty pounds (v); at Henderson's, thirty pounds (w); at Nicholas's, forty pounds (w); at Morgan Town, fifteen pounds (w); at Great Falls, forty pounds (x); at Woodson's, forty pounds (x); at Portsmouth, thirty pounds (y); at Thornton's, fifty pounds (z); at Nortoway, twenty pounds (z); at Amherst, thirty pounds (a); at Booker's, forty pounds (a); at Horseley's, thirty pounds (a).

May 1783. ch. 10. s. 27.

a Oct. 1784. ch. 85.

b 1785 ch. 21.

c Oct. 1784.

ch. 56.

d 1788 ch. 48.

e 1790 ch. 36.

f May. 1784.

ch. 24.

g Ib. ib.

h 1784. ch. 56.

i 1785 ch. 21.

k 1786 ch. 69.

l Oc. 1784.

ch. 56.

m 1788 ch. 9.

n Ib. ib. s. 39.

o 1787 ch. 49.

p 1785. ch. 20

q 1790. ch. 36.

r 1785 ch. 22.

s 1788 ch. 11.

t Ib. ch. 59.

u 1789. ch. 31.

v May 1784.

ch. 24.

w 1789 ch. 31.

x 1790 ch. 36.

y Oct. 1783.

ch. 28.

z 1787 ch. 49.

a 1791. ch. 31.

1785. ch. 20. SEC. XXVI. THE inspectors at Crow's(a), Cresap's(a), Mecklenburg(b),
 b 1788 ch. 59. Lynch's(c), Rivanna(c), and Swan creek(d) warehouses, upon the delivery of
 c 1785 ch. 22. their notes, or an order where notes have not been issued, shall deliver the tobacco
 d 1788 ch. 11. for transportation, with a printed manifest descriptive of the owner's name, the
 name of the skipper of the batteau or canoe, if transported by water, or if wag-
 goned the name of the waggoner, to what warehouse or port the same is destined,
 and to whom to be delivered; the said manifest shall moreover express the marks,
 numbers, and weights of the tobacco, and each hoghead shall be stamped with
 the name of the warehouse at which it was inspected; which manifest shall, by the
 skipper or waggoner (as the case may be) if the tobacco is intended to be sent to
 any warehouse heretofore established, be delivered to the inspectors thereof, who
 are hereby required to receive the same and grant a receipt therefor, and enter such
 tobacco in a separate book to be by them provided and kept for that purpose, and on
 the receipt aforesaid being presented, shall deliver the said tobacco with the mani-
 fests, for exportation, when required, and may demand for all such tobacco the
 same warehouse rent as for other tobacco by them inspected, and the sum of one
 shilling for each hoghead to the use of the inspectors for their trouble in receiving
 and delivering the same: *Provided always*, that nothing in this act contained, shall
 be construed to prevent any owner of tobacco passed at the said inspections, who
 has previously paid the legal duties, from exporting, selling, or storing the same in
 any private warehouse, without being obliged to store it in any warehouse hereto-
 fore established.

1785. ch. 20. SEC. XXVII. THE owners of such tobacco previous to the delivery thereof,
 s. 3. shall procure a duplicate of the manifest, with a certificate from the inspectors, that
 the duties imposed by law have been paid; which certificate, with all others grant-
 ed in similar cases, shall be lodged with the clerk of the court of that county
 where the tobacco was inspected, to be by him transmitted to the auditor of pub-
 lic accounts, on or before the twenty-fifth day of October, annually, to be by
 him compared with the inspectors accounts. And in case the owner of the tobacco
 shall suspect any fraud to have been practised or used by any skipper or waggon-
 er in the transportation thereof from either of the said warehouses, it shall be law-
 ful for the inspectors at any warehouse to which the same may be brought, and they
 are hereby required, at the request of such owner, to re-inspect and weigh the same,
 and if found to be damaged or embezzled, the inspectors shall not enter the same
 in their books, but it shall remain subject to the directions of the owner in like
 manner as other damaged tobacco.

1785. ch. 20. SEC. XXVIII. THE appointment of inspectors, and all other regulations ap-
 s. 4. pertaining to the said warehouses, shall be the same as are provided for by law for
 other inspections, so far as the same do not contravene this act. All tobacco in-
 spected at either of the said warehouses, shall be subject to the same duties and
 imposts, and be collected and accounted for by the inspectors in the same manner
 and under the like penalties, as are directed and prescribed for other warehouses
 heretofore established. And the inspectors at each of the said warehouses, may
 demand and receive for each hoghead by them inspected, the sum of four shillings,
 one shilling whereof to be by them accounted for and paid to the proprietor for
 the rent of the warehouse, and the residue for their own use. *Provided neverthe-
 less*, that no person shall be obliged to receive any notes passed at any of the said
 warehouses, in discharge of any tobacco contracts heretofore entered into.*

1b. ib. s. 5. SEC. XXIX. THE inspectors of the several warehouses within this common-
 wealth, shall deliver any inspected tobacco to any person or persons who shall du-
 ly demand the same, by delivery of the notes or otherwise, for the purpose of ma-
 nufacturing it, and grant him or them a manifest therefor, upon such persons
 paying the usual duties, and lodging with them a certificate of his or their having,
 1786 ch. 36. before some court of record within this commonwealth, entered into bond with
 sufficient security, in the penalty of five hundred pounds, payable to the Gover-

* It appears to have been the intention of the Legislature to put all the inspections
 above the falls of the rivers upon the same footing. This, however, has not been done.
 —It is therefore submitted whether it will not be proper to extend these regulations
 so as to comprehend all such warehouses, the principle being in every respect the
 same.

nor and his successors, for the use of the commonwealth, with condition that he or they will not export, or cause or suffer to be exported, either by land or water, any tobacco received by him or them, for the purpose of manufacturing, until it has been manufactured.

SEC. XXX. AND for the better detecting inspectors who shall not do their duty, and for the more speedy and easy examination into complaints against them ; May 1783.
ch. 10. s. 28.
Be it enacted, that any two justices of the peace, not being inspectors, shall have power to hear all complaints against any inspector within their county, and to take the depositions of witnesses upon the matter of such complaint on both sides, which shall be transmitted by them to the Governor and Council for their determination. And to the end such depositions may be taken in the best manner, the clerk of the county, or some sufficient person by him to be appointed, shall attend the said justices for that purpose, and be paid by the county the same fees as are or shall be by law established for attending the examination of witnesses upon a *dedimus potestatum*. And moreover any two justices shall have power to visit all or any of the public warehouses within their county, and if they shall discover any negligence in the inspectors, either in securing the tobacco, or stowing the same away in a proper manner for saving the room in such houses, or that they are guilty of any other breach or breaches of their duty, the justices shall certify the Governor and Council thereof. And if any inspector shall be adjudged guilty of a breach of his duty, he shall be removed from his office, and be forever after incapable of serving as an inspector. And if any inspector shall be removed from his office, upon a complaint and prosecution against him in the method by this act prescribed, he shall be liable to the action on the case of the prosecutor for his necessary costs and expences in such prosecution, in which the prosecutor shall recover his full costs of suit ; but if the inspector or inspectors shall be acquitted upon such examination, the prosecutor shall be liable to the action of such inspector or inspectors, for the recovery of all damages and expences which he or they shall have sustained or been put to by such prosecution, and costs, unless the Governor and Council shall certify that there was reasonable cause for such complaint ; and every inspector, shall moreover, be liable to the action of the party grieved for all loss and damage that may happen or arise to any person, by occasion of any failure of duty, or neglect of any such inspector ; in which action the plaintiff shall recover his full costs, although the damages do not exceed forty shillings.

SEC. XXXI. ALL county levies, and poor rates, sheriffs, clerks, surveyors, and other officers fees, payable in tobacco, shall be paid and satisfied by the persons chargeable with, and indebted for the same, to the sheriffs or other collectors, by transfer receipts before the tenth day of June yearly. And if any person chargeable with the levies, rates, and fees aforesaid, shall neglect or refuse to pay the same within the time aforesaid, it shall be lawful to, and for the sheriffs and other collectors, immediately after the said tenth day of June, to distrain the goods and chattels of the person or persons so neglecting or refusing, and to sell and dispose thereof, for tobacco in the same manner as is directed by law for goods taken in execution ; and the overplus (if any there be) after paying the several levies and fees, and the charge of distress, which is hereby declared to be the same as for serving an execution, shall be returned to the debtor. And the sheriffs or collectors of the said levies or fees, shall before the last day of July yearly, pay and deliver to each creditor, according to their respective debts or claims, all the inspectors receipts he or they shall have received in satisfaction thereof ; and if any sheriff or other collector shall refuse, or delay to make payment accordingly, if required, he or they so refusing or delaying, shall forfeit and pay to the party grieved, double the value of the tobacco, so refused or delayed to be paid ; to be recovered with costs in any court of record within this state. Ib. ib. s. 30.

SEC. XXXII. IF any of the warehouses herein before mentioned, shall happen to be burnt, the loss sustained thereby shall be made good, and repaired to the several persons injured, by the General Assembly ; and in case of such accident, no inspector shall be sued or molested for, or by reason of any receipts by them given, or for any tobacco burnt in any of the said warehouses, but shall be altogether acquitted and discharged of, and from the payment of the tobacco mentioned in such receipts ; any thing herein before contained to the contrary notwithstanding. *PROVIDED* always, that if the receipts for tobacco so burnt and destroyed, shall be of an older date than twelve months, the tobacco shall not be paid for by the public, but the owner or proprietor thereof shall bear the loss. Ib. ib. s. 31.

May 1783.

ch. 10. s. 32.

SEC. XXXIII. THE inspectors shall not permit the proprietor or any other person to make use of the warehouse at which they are inspectors; and if any warehouse shall hereafter happen to be burnt, and it shall appear that such warehouse was burnt by means of the inspectors permitting the proprietor or any other person to make use thereof, such inspectors shall pay to the treasurer for the time being all such sum or sums of money as shall have been paid to the person or persons so injured.

Ib. ib. s. 33.

SEC. XXXIV. IF any person hereafter shall make any fire within any public warehouse, or without doors within one hundred yards of such warehouse, other than in the inspectors counting room, squares, or funnels, such person, if a freeman, shall for every such offence forfeit and pay ten pounds; to be recovered with costs by action of debt or information in any court of record within this state, by the informer, to his own use; and if a servant or slave, he or she shall, by order of any justice of the peace, receive on his or her bare back twenty lashes for every such offence. And it shall not be lawful for any person whatsoever to erect or build, or cause to be erected or built, any wooden chimney or chimnies within two hundred yards of any public warehouse; and where any such are already built within the distance aforesaid, of any public warehouse, the owner or proprietor thereof shall pull down the same, or on refusal or neglect so to do within one month after the passing of this act, it shall be lawful for the sheriff of the county, and he is hereby required, to cause such chimney or chimnies to be pulled down and demolished.

Ib. ib. s. 36.

SEC. XXXV. IF any inspector or inspectors shall give, deliver, or issue to any person whatsoever his or their receipt expressed to be for any hoghead or cask of tobacco, or for any quantity of transfer tobacco, which they have not actually received into the warehouse whereof they are inspectors, at the time of giving such receipt, or shall give, deliver, issue, or cause or procure to be given, delivered, or issued, more than one receipt for any hoghead or cask of tobacco, or quantity of transfer tobacco by him or them received, except where authorized by law so to do, such inspector or inspectors, being thereof convicted by due course of law, shall be adjudged a felon, and shall suffer death as in case of felony without benefit of clergy.

Ib. ib. s. 37.

Octo. 1784.

ch. 85. s. 2.

SEC. XXXVI. IF any inspectors receipt be casually lost, mislaid, or destroyed, the person or persons entitled to receive the tobacco by virtue of any such receipt, shall make oath before any justice of the peace of the county where the same is payable, to the number and date of every such receipt, to whom and where payable, and for what quantity of tobacco the same was given; and that such receipt is lost, mislaid or destroyed, and that he, she, or they, at the time such receipt was lost, mislaid, or destroyed, was lawfully entitled to receive the tobacco therein mentioned, and shall take a certificate thereof from such justice, and shall advertise the loss of such receipt, at the courthouse of the county in which such inspection may be, on the court day, and at the inspection where the tobacco was brought, for four weeks successively; and shall moreover give bond with sufficient security to the inspectors in double the amount of the tobacco so claimed, to indemnify the person who may thereafter produce the original receipt, the value by him paid for the same, when a duplicate of the said receipt shall be granted by the inspectors to the person or persons entitled to receive the tobacco by virtue of such original receipt, and not otherwise. And if any person shall be convicted of making a false oath, or producing a forged certificate in the case aforesaid, such person shall suffer as in case of wilful and corrupt perjury.

Ib. ib. s. 38.

SEC. XXXVII. WHEN any new inspectors shall be appointed at any of the said warehouses, such inspectors shall, and they are hereby required to give to the person or persons whom they shall succeed, a receipt with his or their hands subscribed, containing the numbers, marks, gross, tare and nett weight, of all and every hoghead or cask of tobacco which shall be then remaining at the warehouse or warehouses, at which they are appointed inspectors, with the delivery and payment of which said hogheads or casks of tobacco so remaining, he or they shall from thenceforth be chargeable and liable; but he or they shall in no wise be accountable or answerable for the loss of weight, or for quality of tobacco contained in any hoghead or cask, for which receipt was by him or them so as aforesaid given. And if any hoghead or cask of tobacco shall hereafter be received by any

person or persons whatsoever, and delivered out of any of the said warehouses for exportation by the inspector or inspectors attending the same, such inspector or inspectors from the time of such delivery, shall be forever discharged and acquitted from all actions, costs and charges, for, or by reason of the tobacco contained in any such hoghead or cask being unsound and unmerchantable, or of less quantity than the receipts given for the same shall specify; any thing herein before contained to the contrary notwithstanding. And when any prized tobacco shall be brought to any public warehouse, in order to be shipped on freight or otherwise, and the inspectors there attending shall refuse to pass such tobacco, unless such as shall be bad and unmerchantable, shall be picked and separated from the rest; or where any light crop tobacco shall hereafter be brought to any of the said warehouses, in either case, the said inspectors, if required, shall permit the owner or other person bringing such tobacco, to make use of one or more of their prizes, for the repacking, prizing, or making heavier such tobacco, without fee or reward; and if there shall be several hogheads of tobacco belonging to several owners, to be picked, repacked, or prized at any public warehouse, the owner or other person bringing the same, whose tobacco shall be first viewed and refused, or found light, shall be first permitted and allowed to make use of such prize or prizes for the purposes aforesaid, and no inspector shall take or convert to his own use, or otherwise dispose of any draughts or samples of transfer or crop tobacco, but the same, if fit to pass, shall be put into the hoghead or bulk out of which it was drawn, under the penalty of forfeiting twenty shillings for every draught so taken away, and not returned as aforesaid, contrary to the directions of this act; to be recovered by the informer, one moiety to his own use, and the other moiety to the use of the proprietor of such tobacco, before any justice of the peace of the county wherein such offence shall be committed. And all inspectors, if required, shall alter the mark and number of any hoghead of re-prized tobacco for which they have before given a receipt; and for preventing confusion and mistakes, shall keep a waste book, in which shall be entered the marks and numbers of all hogheads of tobacco received by them, and another book in which shall be entered the marks, numbers, and weights thereof, when the same shall be delivered out by them; and all inspectors, when required, shall be obliged to prize any light hoghead of tobacco under one thousand pounds, so as to make it up the weight one thousand pounds nett, but shall receive the same fee upon such hoghead, as for transfer tobacco. And where any tobacco shall be brought to the warehouse by the overseer of the owner thereof, the inspectors shall give receipts in the name of the owner, and not of the overseer.

SEC. XXXVIII. THE inspectors of tobacco at the several warehouses with- May 1783 ch.
in this state, shall immediately on the delivery of every hoghead of tobacco at the 16. s. 39.
warehouse whereof they are inspectors, give a receipt for such tobacco, if required by the proprietor or person bringing the same to the said warehouses, expressing therein that the same is for uninspected tobacco; every inspector refusing so to do, shall forfeit and pay to the owner of such tobacco, the sum of twenty shillings.

SEC. XXXIX. IF any master or commander of any ship or other vessel, shall Ib. Ib. s. 1.
take on board or suffer to be taken on board the ship or vessel whereof he is commander, any tobacco brought from any other than some or one of the said public warehouses, or any hoghead or cask of tobacco not stamped by some lawful inspector, or shall suffer to be brought on board, any tobacco, except in hogheads or casks, stamped as aforesaid, every such master or commander shall forfeit and pay fifty pounds for every hoghead or cask of tobacco which shall not have been brought from one of the said public warehouses, or which shall not be stamped as aforesaid, and moreover every such hoghead or cask of tobacco shall be forfeited; one moiety thereof to the use of the informer, and the other moiety to the use of the commonwealth.

SEC. XL. EVERY master, mate, or boatswain of any ship or other vessel, Ib. Ib. s. 1.
which shall arrive in this state in order to load tobacco, shall, before the said ship or other vessel be permitted to take on board any tobacco whatsoever, make oath before the collector of the port wherein such ship or other vessel shall arrive, (which oath the said collector is hereby empowered and required to administer) that they will not permit any tobacco whatsoever to be taken on board their respective ships or vessels, except the same be packed in hogheads or casks stamped by some inspector legally thereunto appointed; which oath they shall subscribe in a book to be kept by the said collector for that purpose: and if any master shall cause any

person who is not really and *bona fide* mate or boatswain, to come on shore and take such oath, he shall for the said offence forfeit and pay five hundred pounds.

May, 1783.
ch. 10. s. 2.

SEC. XLI. IF any person not being a servant or slave, taking upon himself to carry any tobacco to or from any of the said warehouses in his boat or other vessel for hire, shall take on board or permit or suffer to be taken on board, any tobacco whatsoever, in bulk or parcels, such tobacco shall not only be forfeited, and may be seized by any person or persons whatsoever, but the master or skipper offending herein, shall forfeit and pay two shillings for every pound weight of such tobacco; and the master or commander of any ship or vessel wherein any tobacco in bulk or parcels shall be found, shall over and above the forfeiture thereof, be subject and liable to the same penalty; to be recovered, if it doth not exceed five pounds, before any two justices of the peace of any county near the place where such ship, boat, or other vessel shall lie; and if it exceeds five pounds, in any court of record by action of debt, wherein the plaintiff shall recover his costs. And if any servant, or other person employed in navigating any such boat or other vessel, shall connive at or conceal the taking or receiving on board any tobacco in bulk or parcel, as aforesaid, he shall pay the sum of five pounds, to be recovered as aforesaid; and if such servant or other person, shall be unable to pay the said sum, he or they, and every slave so employed, shall, by order of such justice, receive on his bare back, thirty-nine lashes well laid on; and if such boat or other vessel be under the care and management of a servant who cannot pay and satisfy the penalty so to be inflicted on the master or skipper offending as aforesaid, then such servant, and every other person employed under him, unable to pay the said penalty, who shall be guilty of conniving at or concealing the taking on board tobacco in bulk or parcels, as aforesaid, shall, upon every complaint and proof thereof made to a justice of the peace, have and receive, by order of the said justice, thirty-nine lashes, well laid on; and if any servant shall again be entrusted with the care and management of any boat or other vessel, and shall be convicted a second time of taking or receiving on board the same, any tobacco in bulk or parcel, contrary to the directions of this act, the owner of such servant shall forfeit and pay the like sum of two shillings *per* pound for every pound weight of such tobacco so taken or received on board in bulk or parcel, and shall also forfeit and pay ten shillings for every day such servant shall thereafter be employed as skipper or master of any boat or vessel to him belonging; to be recovered and applied as aforesaid. *Provided nevertheless*, that it shall be lawful for the proprietor or proprietors to break any hoghead of tobacco after it shall be passed and stamped, and to re-pack and prize the same into small casks for the convenience of stowing, provided it be done at the warehouse where the same was inspected and weighed, marked, and stamped; and the inspectors shall particularize all such casks in their manifests, to be given to the masters or skippers of the vessel in which such tobacco be laden. *Provided always*, that nothing herein before contained shall be construed to prohibit any person from carrying, or causing to be carried to the said warehouses, in any boat or other vessel, any tobacco in bulk or parcels, for the payment of his or her levies, debts, or other duties, or to prohibit any person to put or take on board any boat or other vessel, any hogheads or casks of tobacco, to be water-borne to any warehouse appointed by this act, so as the same be not carried out of the collectors or other officers of the customs district wherein the said tobacco shall be made, nor to prohibit the owner of any tobacco to transport his crops, or any part thereof, in hogheads or casks, from one plantation to another, for the better handling and managing thereof, nor any purchaser of tobacco from bringing the same by water, to be re-packed, sorted, stemmed, or prized, before the same be carried to the said warehouses, so as such last mentioned tobacco be packed in hogheads or casks; but no tobacco on any pretence whatsoever, shall be carried or transported by water, to be inspected out of the district limited and appointed for the several collectors or other officers of the customs of this state, wherein the same shall be made, or being so carried, shall not be inspected or passed by any inspectors, knowing the same to be made out of such district, upon pain of forfeiting by the owner of such tobacco, and the inspectors who shall pass the same, fifty shillings for every hoghead to the informer. *Provided nevertheless*, that it shall and may be lawful for the inhabitants of Fleet's bay, on the south side of Indian creek, in the county of Lancaster, to carry their tobacco by water to the public warehouse at Indian creek; and the inhabitants at Warrasqueake bay, and the parts adjacent, to carry their tobacco to be passed at any warehouse in the upper district of James river.

1b. 1b. s. 4.

SEC. XLII. IF the skipper of any boat or vessel, or the person or persons to whom the care and management thereof shall be entrusted, shall land or put on

shore any hogthead, cask, or package of tobacco, put on board the same, to be carried to any public warehouse at any other place or places, than the warehouses by this act appointed for the reception and inspection of tobacco, or at some or one of them, or the wharves or other landing to such warehouse or warehouses belonging; or shall put the same on board any other vessel, or suffer the same to be done, so as the same be not delivered at some of the said public warehouses, without fraud or embezzlement, or shall open any hogthead or cask of tobacco so as aforesaid waterborne and landed, and take thereout any tobacco before the same be received by the inspectors according to the directions of this act; or after the same has been viewed, shall fraudulently open any hogthead or cask, and take thereout any tobacco, every such offence shall be judged felony, and the offender or offenders shall suffer as in the case of felony. *Provided always*, that nothing herein before contained, shall be construed to prohibit the landing, or putting on shore any hogthead, cask, or package of tobacco, out of any boat or other vessel, which by distress of weather shall be forced aground, or become leaky, so as such landing be really and *bona fide* for the preservation of the tobacco laden in such vessel, and that the same may with all convenient speed be thereafter carried to the warehouse or ship (as the case may be) to which it was designed, without embezzlement. *Provided also*, that if by any of the accidents aforesaid, or negligence of the master or skipper of any vessel, any tobacco which hath been viewed and stamped, shall in its carriage to the ship in which it is intended to be exported, receive so much damage as that the master of such ship or vessel will not receive it on board; every hogthead or cask of tobacco so damaged, shall with convenient speed be carried to some warehouse appointed by this act, and there lodged until the owner of the said tobacco, or master of the vessel in which it was damaged, shall have separated the same, and repacked the good tobacco; and then the same shall be weighed and stamped with the weight by the inspector attending such warehouse without fee or reward; but if the owner of such tobacco, or the master of the vessel in which it was damaged, shall fail or delay to separate and repack the same within ten days, then the inspectors at the warehouse where such damaged tobacco shall be landed, shall, and they are hereby required to separate, repack, weigh and stamp the same; and such inspectors shall receive of the owner ten shillings for their trouble and nails.

SEC. XLIII. AND to the intent that the just quantity of tobacco exported May, 1783. may be more exactly known, and evil practices to defraud the public of the duty ch. 10. s. 34. prevented; *Be it enacted*, That all inspectors shall carefully enter in a book, to be provided and kept for that purpose, the marks, numbers, gross, nett weight, and tare of all tobacco viewed and stamped by them as aforesaid, and in what ship or vessel the same shall be laden or put on board; and shall also, with every sloop or boat load of tobacco, send a list of the marks, numbers, gross, nett weight, and tare, of every hogthead or cask of tobacco then delivered, to be given to the master of the ship or vessel in which the same shall be put on board; and if the tobacco delivered to the same sloop or boat is intended to be put on board several ships or vessels, then they shall deliver so many distinct and several lists as aforesaid, of the hogheads or casks, to be put on board such ship or vessel respectively. But whereas it may happen that the ship in which such tobacco was intended to be put, may be so full as not to be able to stow all the tobacco contained in such list, in such case it shall be lawful to ship the said tobacco, or any part thereof, on board any other ship or ships where the owner thereof shall think fit; the masters of such ships endorsing on the said lists the marks and numbers of the respective hogheads by them taken on board, and giving notice to the inspectors of the warehouse from which the same was brought; or if there be no ship to receive the said tobacco, then it shall be lawful for the master of the first mentioned ship or vessel, to put the said tobacco into any warehouse in the district where such ship or vessel shall ride, giving immediate notice thereof to the inspectors who stamped the same. And the inspectors of that warehouse where such tobacco shall be delivered, shall receive from the persons relanding such tobacco, one shilling and six-pence for every hogthead so relanded, and shall give a receipt for the same, which money so received by the inspectors, shall be paid by them to the person or persons entitled to receive the rent of the said warehouse.

SEC. XLIV. EVERY master of a ship or vessel wherein tobacco shall be laden, shall at the time of clearing, deliver to the collector or other officer of the customs, a fair manifest of all the tobacco on board his ship or vessel, expressing the marks and numbers of every hogthead or cask, and the tare and nett weight stamped thereon, the person by whom shipped, and from what warehouse, and shall

make oath thereto, and that the same is a just and true account of the marks, numbers, tare, and nett weight of each respective hoghead or cask, as the same was taken down by the person or persons appointed by him to take the same before the said tobacco was stowed away; and no ship or vessel shall be cleared by the collector, or other officer of the customs, before he shall have received such list and manifest, which shall, by the said collector, or other officer of the customs, be returned, upon oath, on or before the twenty fifth day of October, annually, to the treasurer of this commonwealth for the time being; and every collector failing herein shall forfeit and pay the sum of one hundred pounds for every such failure.*

May 1783. SEC. XLV. ALL the penalties and forfeitures in this act contained, and not
ch. 10. s. 40. herein before particularly appropriated, shall be, one moiety to the commonwealth to be applied towards defraying the charges of the execution of this act, and the other half to the person who shall inform and sue for the same, and shall be recovered with costs by action of debt or information in any court of record within this commonwealth, where the penalty exceeds twenty five shillings, or two hundred pounds of tobacco, and where the same does not exceed those sums, before any justice of the peace of the county where the offence shall be committed.

Ib. ib. s. 45. SEC. XLVI. IN case any of the warehouses herein before named shall not after

receive a sufficient quantity of tobacco to pay the inspectors salaries and rents of the warehouses, the inspection of tobacco at such warehouses respectively, shall be thenceforth discontinued; unless the same shall be supported at private expence. *Provided*, that this clause shall not extend to the discontinuance at one time of two or more warehouses, which may be in the same county, or county next adjacent; but in such cases that warehouse shall be discontinued to which the smallest quantity of tobacco may be brought.

Ib. ib. s. 46. SEC. LXVII. THE public printer shall furnish one copy of this act to the inspectors at each of the warehouses herein mentioned.

Ib. ib. s. 47. SEC. LXVIII. THE acting inspectors of tobacco at the several warehouses shall be, and they are hereby exempted from militia duty, except in case of actual invasion or insurrection.

ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

PROVIDED always, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

* The committee doubted, upon the construction of the second clause in the 10th section of the 1st article of the constitution of the United States, which authorizes the several states to impose such duties as may be necessary for executing their inspection laws, whether the legislature could require, and enforce the performance of any service from the revenue officers of the United States. As however those officers took the place of the naval officers of the state, and no check can otherwise be established upon the inspectors, they have thought proper to follow former regulations. The act of Congress 1790. ch. 5. seems to authorize this measure. The right of imposing a penalty on captains of vessels and others for taking other tobacco than such as shall be prized and inspected according to law and from such warehouses as shall likewise be so appointed, is less questionable, as without it the inspection law would be defeated altogether.

A BILL declaring what shall be Treason; for punishing certain Offences injurious to the tranquility of the Commonwealth; and concerning Felonies and Offences committed out of the Jurisdiction of the same.

SECTION I. **W**HEREAS divers opinions may be, what case shall be adjudged treason, and what not: *Be it enacted by the General Assembly,* Oct. 1776.
That if a man do levy war against this commonwealth in the same, or be adherent ch. 3. s. 1.
to the enemies of the commonwealth within the same, giving to them aid and comfort in the commonwealth or, elsewhere, and thereof be legally convicted of open deed by the evidence of two sufficient and lawful witnesses, or their own voluntary confession, the cases above rehearsed shall be judged treason, which extendeth to the commonwealth; and the person so convicted shall suffer death without benefit of clergy.

SEC. II. **ALSO**, every person or persons who shall erect or establish, or cause or procure to be erected or established, any government separate from, or independent of the government of Virginia, within the limits thereof, unless by act of the legislature of this commonwealth for that purpose first obtained; or who shall in any such usurped government, hold or execute any office legislative, executive, judiciary, or ministerial, by whatever name such office may be distinguished or called; or who shall swear or otherwise solemnly profess allegiance or fidelity to the same; or who shall under pretext of authority derived from, or protection afforded by such usurped government, resist or oppose the due execution of the laws of this commonwealth, shall be adjudged guilty of high treason, and shall be proceeded against and punished in the same manner as other traitors may be proceeded against and punished by the laws now in force. 1785. ch. 10. s. 2.

SEC. III. **EVERY** person who shall attempt to establish such government by any other means than with the assent of the legislature of this commonwealth, and in pursuance of such attempts, shall join with any other person or persons, in any overt act for promoting such attempts, or who shall by writing or advised speaking, endeavour to instigate the people of this commonwealth to erect or establish such government, without such assent as aforesaid, shall be adjudged guilty of a high crime and misdemeanor, and on conviction, shall be subject to such pains and penalties, not extending to life or member, as the court, before whom the conviction shall be, shall adjudge. 1b. ib. s. 3.

SEC. IV. **IF** any citizen or inhabitant of this commonwealth, shall go beyond the limits of the United States within the acknowledged jurisdiction of any civilized nation in amity with the United States, and shall within the same commit any crime, for which, in the judgment of the United States in Congress assembled, the law of nations, or any treaty between the United States and a foreign nation, require him to be surrendered to the offended nation, and shall thereafter flee within the limits of this commonwealth, and the sovereign of the offended nation shall exhibit to the United States in Congress assembled, due and satisfactory evidence of the crime, with a demand of the offender to be tried and punished where the same was committed; and the United States in Congress assembled, shall thereupon notify such demand to the Executive of this state, and call for the surrender of such offender, the Governor, with the advice of the Council of State, is hereby authorized to cause him to be apprehended, conveyed, and delivered to such person or persons, as the United States, in Congress assembled, shall prescribe. Oct. 1784. ch. 63. s. 2.

SEC. V. **IF** any citizen of this commonwealth shall go out of the same into the territory of any Christian nation, or Indian tribe, in amity with the United States, and shall there commit murder, house-burning, robbery, theft, trespass, or other crime, which, if committed within this commonwealth, would be punishable by the laws thereof, it shall and may be lawful for any justice of the peace, on proof of such offence by the oath of one or more credible witness or witnesses, to issue his warrant, directed to all sheriffs, under-sheriffs, and constables within this commonwealth, commanding them and each of them, within their respective counties and precincts, to apprehend such offender or offenders, and him, her, or them to bring before such justice, or any other justice of the peace in the same county, or in the county where the offender may be apprehended; and such offender or offen- 1b. ib. s. 3.

ders shall be subject to the same punishment, and shall be dealt with in the same manner, as if the offence with which he, she, or they stand charged, had been committed within the body of some county of this commonwealth; and such offenders may be tried by a jury of by-standers, qualified by law to serve on juries in capital cases: *Provided also*, that it shall and may be lawful for the magistrate committing such offender (if the circumstances of the case shall render it absolutely necessary) to appoint the time for holding a court for the examination of such offenders at a more distant period than the law allows with regard to other criminals, provided the same be held within thirty days after the commitment of the prisoner.

Osso. 1784.
ch. 63. s. 4.

SEC. VI. WHERE sufficient proof shall not appear to the court before whom such offender shall be examined, to convict him or her of the charge, it shall and may be lawful for such court (if the circumstances of the case shall, in the opinion of the court, require it) to bind such offender to his or her good behaviour, in such sum and for such time as the said court shall judge reasonable.

1786. ch. 46.

SEC. VII. ALL high treasons, misprisions and concealments of high treasons, and other offences against this commonwealth (except piracies and felonies on the high seas) committed by any citizen of this commonwealth in any place out of the jurisdiction of the courts of common law in this commonwealth, and all felonies committed by citizen against citizen in any such place other than the high seas, shall be enquired into, heard, determined, and judged in the General Court, in the same manner as offences committed within the body of a county are triable in a District Court; and such as shall be convicted of any such offence, shall suffer such pains, penalties, judgment, and execution, as if they had been attainted and convicted of such offence done within the body of a county.

ALL and every statute and statutes, act and acts, clause or clauses thereof, within the purview of this act (except as herein after provided) shall be, and are hereby repealed.

PROVIDED always, That nothing in this act contained, shall be construed to repeal the said statutes or acts, for so much thereof as relates to any offence within the purview thereof, committed or done before the commencement of this act.

A BILL for preventing Trespasses; declaring what shall be deemed a lawful Inclosure; for preventing Infection of the horned Cattle; and losses from Drivers thereof passing through the Commonwealth.

1748. ch. 15.
s. 1.

SECTION I. *BE it enacted by the General Assembly*, That if any horses, mares, cattle, hogs, sheep, or goats, shall break into any grounds being inclosed with a strong and sound fence, five feet high, and so close that the beasts breaking into the same could not creep through, or with an hedge two feet high, upon a ditch three feet deep, and three feet broad, or instead of such hedge a rail fence of two feet and an half high, the hedge or fence being so close that none of the creatures aforesaid can creep through, which shall be accounted a lawful fence; the owner of such horses, mares, cattle, hogs, sheep, or goats, or any one of them, shall for the first trespass so committed, make reparation to the party injured for the true value of the damage he shall sustain, and for every trespass afterwards, double damages; to be recovered with costs, in any court of record: *Provided*, that for a third offence for any one of the beasts aforesaid breaking into such inclosures, it shall be at the election of the party injured, to sue for his damages, or to kill and destroy the beasts so trespassing without being answerable for the same.

Ib. ib s. 4.

SEC. II. AND that the condition of the fence at the time of the trespass committed may be proved to a jury upon trial, *Be it enacted*, that upon complaint made

by the party injured, before any justice of the peace of that county wherein such trespass shall be, such justice is hereby empowered and required, to issue his order, without delay, to three honest housekeepers of the neighbourhood no ways related to the party injured, nor interested concerning the trespass, reciting the complaint, and requiring them to view the fence where the trespass is complained of, and to take memorandums of the same, and their testimony in such case shall be good evidence to the jury touching the lawfulness of the fence.

SEC. III. IF any person damaged for want of such sufficient fence, shall hurt, wound, lame, kill, or destroy, or cause to be hurt, wounded, lamed, killed, or destroyed, by shooting, hunting with dogs, or otherwise, any of the kind or breed of horses, cattle, sheep, hogs, or goats, he, she, or they so offending, shall pay and satisfy to the owner of the creature so hurt, wounded, lamed, killed, or destroyed, double damages, with costs, recoverable as aforesaid. 1748. ch. 15. s. 4.

SEC. IV. ALL owners of horses, mares, cattle, and other beasts, which they know to have barked fruit-trees, shall keep the same within their own fenced ground; and if any person shall take up any horse, mare, kine, or other beast, known by the owner to have barked fruit-trees, and shall deliver the same to such owner, he or she shall pay the taker up one hundred pounds of tobacco for every such beast so taken up and delivered; recoverable with costs before any justice of the peace of the county wherein such beast was taken up, or the owner lives: *Provided always*, that the taker up shall, if required, make oath before the same justice that he took up such horse, mare, or other beast, and that no means were used, by himself or any other person to his knowledge, to set the same at large, otherwise he shall lose the said reward. Ib. ib. s. 5.

SEC. V. EVERY person who without leave of the owner shall take away any boat, or other vessel, shall for every such offence, pay five hundred pounds of tobacco to the owner thereof, over and above the damage such boat or other vessel shall sustain, and over and above the charge of bringing back such boat or other vessel; to be recovered with costs, in any court of record, as aforesaid. And if the person so trespassing shall be a servant, he or she shall make the like satisfaction, by his or her service, when the time due to his or her master, or owner, shall be expired. And where there shall be several offenders in one trespass, every person shall be liable for the whole penalty. Ib. ib. s. 6.

SEC. VI. *AND be it further enacted*, That the driving of cattle into, or through the commonwealth, or any part thereof, if it be not to remove them from one plantation to another of the same owner, or to be used at his house, shall be deemed a nuisance, unless the driver shall produce to any freeholder of a county wherein the drove is passing, who shall require it, a bill of health, signed by some justice of the commonwealth, containing the number of the drove, with descriptions of the cattle, by their sexes, flesh marks, and ear marks or brands, and certifying them to be free from distemper; or notwithstanding he may produce such bill of health, unless he shall forthwith obtain another, at the like requisition, if any freeholder shall make affidavit before a justice that he hath cause to suspect some of the cattle to be distempered. Such bill of health shall not be given in either case before two disinterested freeholders appointed by warrant of a justice shall have viewed the cattle, and reported them to be free from distemper. A freeholder refusing to obey such warrant, shall be amerced by the justice granting such warrant in any sum not exceeding twenty-five shillings. If the cattle appear by the report to be distempered, the owner may impound them, and if he refuse to do so, or if he suffer them to escape from the pound, before a justice shall have certified that they may be removed without annoying others, the same justice, or some other to whom information shall be given of the fact, shall by his order cause them to be slaughtered, and the carcases with the hides on, but so cut or so pegged, that none may be tempted to take them up and flay them, to be buried four feet deep. Those who shall be employed in executing such orders, shall receive five shillings for every head so buried, to be paid by the county wherein it shall happen; and every person appointed by the order, who shall refuse or neglect to execute it, shall be amerced in the sum of five shillings for every head so directed to be buried. Every person shall so restrain his distempered cattle, or such as are 1785. ch. 72. s. 1.

under his care, as that they may not go at large off the land to which they belong, and when they die shall bury them with their hides in manner aforesaid; and knowingly offending in either of those instances, shall be amerced in the sum of twenty shillings for every head they shall neglect so to bury.

1748. ch. 34.
s. 2.

SEC. VII. *AND be it further enacted*, That from and after the passing of this act, every driver of nett cattle shall immediately after their coming into this commonwealth, go before the next justice of the county, and produce to him a true and perfect manifest, certified under the hand of a magistrate in the state from whence they last came, wherein shall be distinguished the sexes, ages, marks, and colors of all and every such cattle, and also at the same time produce bills of sale for them, and particularize the place of abode and name of the seller, and make oath that he knows of no more cattle in his drove than what are mentioned in the manifest and bill of sale, which oath the justice shall administer, and certify on the manifest, and shall enter in a book, by him to be kept for that purpose, a copy of the said manifest and certificate; and if any nett cattle shall be bought in this commonwealth, in order to be driven into any neighbouring state, the driver shall produce his bill of sale to the next justice of the county where they shall be bought, and shall make oath that the said bill is true, and that he knows of no more cattle in his drove than what are mentioned in the said bill and manifest; in case there be any, which the justice shall enter and certify in manner aforesaid, and also shall add a description of the cattle so bought to the manifest, if any; and the like method shall be used by the drivers and justices in all the other counties of this commonwealth, through which they pass, upon their arrival therein: And if any driver shall fail herein, he, she, or they, shall forfeit and lose his, her, or their whole drove of cattle. And any justice of the peace, upon complaint to him thereof made, is hereby empowered to issue his warrant to the sheriff, or any constable of his county, forthwith to raise sufficient force, and to seize the cattle, and cause the driver or drivers to come before him, or any other justice of the county, who is hereby empowered to hear the matter, and give a final judgment therein, and to order the cattle, if he shall judge them forfeited, to be sold by the sheriff in the same manner as goods taken in execution; and the sheriff shall be allowed the same fee for the service, and shall also be allowed for keeping and providing for the said cattle, until they are sold, after the rate of two-pence *per* head for every twenty-four hours, out of the money arising from the sale. But in case any person other than the driver or drivers so convicted, or their employers, shall appear before the justice before whom the judgment was obtained, before the cattle are sold, and shall make his, her, or their property in any of them appear, the sheriff shall by order of such justice, restore the same to such owner or owners, upon payment of the charge of their keeping; or if any owner or owners shall, within three months after the sale, make their property appear as aforesaid, the sheriff shall pay him, her, or them, by order of the justice for their cattle, according to the sale, after deducting a proportionable part of the charges. And at the expiration of the said three months, the money arising from the sale, shall be appropriated, one moiety to the overseers of the poor of the district where the driver shall be convicted, for the use of the district, and the other moiety to him, her, or them, who did inform or prosecute, and shall be paid them by the sheriff accordingly; and the sheriff shall return an account of the sales to the clerk's office, to be lodged among the records of the county.

Ib. ib. s. 3.

SEC. VIII. *PROVIDED always*, That nothing herein contained, shall be construed to extend to any of the inhabitants of this commonwealth who shall buy any nett cattle, and be driving them home, or to any persons coming with their families and stocks to settle in this commonwealth.

ALL and every act or acts, coming within the purview of this act, shall be, and the same are hereby repealed.

PROVIDED always, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, or penalties which have accrued, been vested, or incurred prior to the commencement of this act.

A BILL for the effectual suppression of Vice, and punishing the Disturbers of religious Worship, and Sabbath breakers.

SECTION I. **B**E it enacted by the General Assembly, That if any person or persons shall profanely swear or curse, or shall be drunk, he she, or they, so offending, for every such offence, being thereof convicted by the oath of one or more witnesses (which oath any justice of the peace is hereby empowered and required to administer) or by confession before one or more justice or justices of the peace in the county where such offence shall be committed, shall forfeit and pay the sum of five shillings, or fifty pounds of tobacco, for every such offence; or if the offence or offences be committed in the presence and hearing of one or more justice or justices of the peace, or in any court of record in this commonwealth, the same shall be a sufficient conviction, without any other evidence; and the said offender shall, upon such conviction, forfeit and pay the sum of five shillings, or fifty pounds of tobacco, for every such offence. And if any person or persons shall refuse to make present payment, or give sufficient security for the payment of the same, in a reasonable time, not exceeding six months, then the said fines and penalties shall be levied upon the goods of such person or persons, by warrant or precept from any justice of peace before whom such conviction shall be; which warrant may be directed to the sheriff of the county or to the constable in his respective precinct to be appraised and valued as in other distresses; and if the offender or offenders be not able to pay the said sum or sums, then he, she, or they, shall have and receive ten lashes upon his or her bare back, well laid on, for every such offence. 1705 ch. 6. s. 4.

SEC. II. *PROVIDED* always, That every prosecution by virtue of this act, for swearing, cursing, or for being drunk, shall be made within two months after the offence committed, and not afterwards. Ib. ib. s. 5.

SEC. III. NO officer for any civil cause shall arrest any minister of religion, licensed according to the rules of his sect, and who shall have taken the oath or affirmation of fidelity to the commonwealth, while such minister shall be publicly preaching or performing religious worship, in any church, meeting house, or other place of religious worship, on pain of imprisonment and amercement, at the discretion of a jury, and of making satisfaction to the party so arrested. And if any person shall on purpose, maliciously or contemptuously, disquiet or disturb any congregation assembled in any church, meeting house, or other place of religious worship, or misuse any such minister being there, he may be put under restraint, during religious worship, by any justice present, which justice, being present, or if none be present, then any justice before whom proof of the offence shall be made, may cause the offender to find two securities to be bound by recognizance in a sufficient penalty for his good behaviour, and in default thereof shall commit him to prison, there to remain till the next court to be held for the same county; and upon conviction of the said offence before the said court, he shall be further punished by imprisonment and amercement, at the discretion of a jury. If any person on a sabbath day shall himself be found labouring at his own or any other trade or calling, or shall employ his apprentices, servants or slaves in labour or other business, except it be in the ordinary household offices of daily necessity, or other work of necessity or charity, he shall forfeit the sum of ten shillings for every such offence, deeming every apprentice, servant, or slave, so employed, and every day he shall be so employed, as constituting a distinct offence. 1786. ch. 54.

SEC. IV. EVERY person not being a servant or slave, committing adultery, or fornication, and being thereof lawfully convicted by the oaths of two or more credible witnesses, or confession of the party, shall for every offence of adultery, forfeit and pay one thousand pounds of tobacco and cash, and for every offence of fornication, five hundred pounds of tobacco and cash; to be recovered by the suit or prosecution of the overseers of the poor of the county wherein such offence shall be committed, by bill, plaint, or information, in any court of record within this commonwealth, wherein no *essoin*, protection, or wager of law shall be allowed. And if any person or persons offending herein, shall refuse to make present payment or give sufficient security for the payment of the fine within six months, each party so offending and not paying, or giving security as aforesaid, shall receive on his or her bare back at the public whipping post twenty five lashes, well laid on. Which said fines and penalties shall accrue to the overseers of the poor for the use of the poor of the county wherein the said offence shall be committed. 1705. ch. 6. s. 8.

ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act (except as herein after provided) shall be, and the same are hereby repealed.

PROVIDED always, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

A BILL concerning Waste.

52 H. 3 c. 23
6. Ed. 1 ch. 5. SECTION I. **B**E it enacted by the General Assembly, That if any tenant by the curtesy, tenant in dower, or otherwise for term of life or years, shall commit waste during their several estates or terms, of the houses, woods, or any other thing belonging to the tenants so held, without special license in writing so to do, they shall be subject respectively to an action of waste, and shall moreover lose the thing wasted, and recompence the party injured in three times the amount at which the waste shall be assessed.

11. H. 6. ch. 5. SEC. II. IN case any of the said tenants shall aliene their estate, and notwithstanding retain possession of the same, and commit waste, he in the reversion shall be entitled to his action of waste, and likewise recover against them the place wasted, and treble damages.

13. Ed. 1. ch. 22. SEC. III. IF one tenant in common shall commit waste of the estate held in common, he shall be subject to an action of waste at the suit of the other tenant or tenants in common.

20. Ed. 1. ch. 2. SEC. IV. AN action of waste shall be maintainable by the heir, whether within or of full age, for waste done in the time of his ancestor, as well as in his own time.

Ib. ib. SEC. V. IF tenant for life commit waste, and he in the reversion brings his action of waste, and dieth before judgment, his heir may bring an action of waste for the same.

9. H. 3. ch. 4. & 5. SEC. VI. IF a guardian shall commit waste of the estate of his ward, such ward, when he attains his full age, shall have his action to recompense him for the injury.

13. Ed. 1. ch. 14. SEC. VII. THE process in an action of waste, shall be summons, attachment, and distress, and if the defendant appear not upon the distress, the waste shall nevertheless be enquired of by a verdict of a jury, and the court proceed to judgment according to the directions of this act.

6. Ed. 1. ch. 13. SEC. VIII. AFTER the commencement of any suit in any court of this commonwealth, the tenant shall have no power to commit waste or *estrepment* of the land in demand, whilst such suit is depending; and if he do, the sheriff shall be commanded to keep the same at the suit of the plaintiff.

ALL and every statute and statutes, act and acts, clause or clauses thereof, within the purview of this act (except as herein after provided) shall be, and are hereby repealed.

PROVIDED always, That nothing in this act contained, shall be construed to repeal the said statutes or acts, for so much of them as relates to any offence within the purview thereof, committed or done before the commencement of this act.

A BILL concerning Weights and Measures.

SECTION I. **W**HEREAS the General Assembly of Virginia at their session in the year one thousand seven hundred and thirty-four, did pass an act, intituled, "An act for more effectually obliging persons to buy and sell by weights and measures, according to the English standard:"*

SEC. II. *BE* it therefore enacted by the General Assembly, That the said act shall continue and remain in force until the Congress of the United States shall have made provision on that subject.

SEC. III. *PROVIDED* always, That all fines, forfeitures, and penalties in the said act mentioned, shall be and enure, one moiety to the commonwealth, and the other to the use of the informer.

* The act above referred to, is as follows:—

SEC. I. *FORASMUCH* as the buying and selling by false weights and measures is of late much practised in this colony, to the great injury of the people :

SEC. II *BE* it enacted by† this present General Assembly, and by the authority of the same, That from henceforth there shall be but one weight, one measure, one yard, and one ell, according to the standard of the Exchequer in England; and whosoever shall sell or buy by, or keep, any other weight, measure, yard, or ell, whereby any corn, grain, salt, or other thing, is bought or sold, after the tenth day of June, one thousand seven hundred and thirty-six, shall forfeit for every offence, twenty shillings, being thereof lawfully convicted by the oath of one sufficient witness, before any justice of the peace of the county where the offence shall be committed; to be levied by distress and sale of the goods of the offender, for the use of the poor of the parish, rendering the overplus to the party so offending: and in default of such distress, such justice of the peace shall commit the said party to the common gaol or prison, there to remain without bail or mainprize, until he shall pay such forfeitures as aforesaid.

SEC. III. *AND* to the end all people may be more easily provided with such weights and measures, *BE* it further enacted, That the justices of peace of every county, where they have not already provided the same, shall, within eighteen months after the end of this session of Assembly, provide, at the charge of their respective counties, brass weights of half hundreds, quarters, half quarters, seven pounds, four pounds, two pounds, and one pound weight, according to the said standard; and measures of bushel, half bushel, peck, and half peck, dry measure, according to that standard; and gallon, pottle, quart, and pint, of wine measure, according to the said standard, with proper scales for the weights; upon pain of forfeiting, by every justice sworn into the commission of the peace, five shillings for every month such weights and measures shall be wanting: to be recovered by action of debt or information, in any court of record in this colony; one moiety whereof shall be to the public† for supporting the contingent charges of this government; and the other moiety to the informer.

† The words, "the Lieutenant Governor, Council, and Burgeses of," in the original.

† The words, "King, his heirs, and successors," in the original.

A BILL giving a reward for killing Wolves.

1748. ch. 40.

May 1782.
ch. 37. and
1789. ch. 25.

SECTION I. **B**E it enacted by the General Assembly, That any person who shall kill or destroy a wolf in any county within this commonwealth, and produce satisfactory proof thereof in the manner herein after required, shall have a reward of fifty pounds of nett tobacco for every young wolf not exceeding the age of six months, to be adjudged by the justice before whom such proof shall be exhibited; and for every wolf above that age one hundred pounds of nett tobacco; and for every wolf that such person shall kill or destroy within the counties of Hampshire, Albemarle, Amherst, Fluvanna, Orange, Culpeper, Berkeley, Loudoun, Fairfax, Prince William, Buckingham, Pendleton, Frederick, Shenandoah, Fauquier, Hardy and Charlotte, the following additional reward, to wit; for every young wolf not exceeding the age of six months, to be adjudged in like manner, one hundred pounds of nett tobacco, and for every wolf above that age, two hundred pounds of like tobacco, to be levied and paid in the county where the same shall be killed; and the courts of the said several counties are hereby empowered and directed to levy, and pay the same, in their annual levy, to the party or parties entitled thereto upon certificates obtained in the manner by this act required.

1748. ch. 40.

SEC. II. **EVERY** person claiming such reward shall produce the whole head of every wolf to a justice of peace of the county wherein the same was killed or destroyed, and shall then also make oath (or being a quaker or menonist, solemnly affirm and declare) that the same is the head of a wolf taken and killed within the county of _____ in Virginia; and if such person be a Christian under the age of fourteen years, or a tributary Indian, mulatto, or negro, then instead of such oath or affirmation, such justice shall admit such other evidence or circumstance, as in his judgment shall be satisfactory; and every justice of peace before whom such head or heads shall be brought, is hereby empowered and required to administer such oath or affirmation or take such other proof, (as the case shall be) and thereupon to grant the wolf killer a certificate reciting his or her name, the number of heads produced either of old or young wolves, the time and place when and where the same were killed, and that oath or affirmation, or other sufficient proof thereof hath been made before him, which being produced to the court laying the county levy, shall entitle the party or parties therein named to the reward aforesaid; but no claim or demand shall be received or allowed for the same without such certificate. And if any person whosoever shall take a false oath or affirmation before any justice in order to obtain such certificate, he or she being thereof convicted shall suffer as for wilful and corrupt perjury in a court of record, and moreover shall forfeit and pay one thousand pounds of tobacco for every such offence, one moiety to the commonwealth, and the other to the informer; to be recovered with costs by action of debt or information, in any county court.

Ib. ib.

SEC. III. **PROVIDED** always, That every justice of peace shall cause the ears of all wolves heads brought before him, to be cut off in his presence, and shall not grant a certificate for any scalps; and if any justice shall suspect the truth of

SEC. IV. **AND** the said weights and measures so to be provided, shall be kept from time to time by such person as shall be appointed by the county courts respectively, to which all persons may resort for trying their weights and measures; and when they are tried and found to agree with the standard, the same shall be sealed, by the person keeping such standard, with a seal, to be likewise provided by the justices as aforesaid: And that the fees, to the persons entrusted with the keeping of such standard weights and measures, be, for the trying every steelyard, and certificate thereof, one shilling; for the trying any weights or measures, and sealing the same, four pence for every such weight or measure sealed, to be paid by the person for whom the service shall be done; any former law, custom, or usage, to the contrary hereof, in any wise, notwithstanding.

SEC. V. **PROVIDED** always, That this act, or any thing herein contained, shall not be construed to prohibit any person or persons whatsoever, from buying and selling by steelyards which shall be tried by, and agree with the standard aforesaid, where the buyer and seller, payer and receiver, shall both consent thereto; any thing in this act contained, to the contrary hereof, in any wise notwithstanding.

any oath or affirmation before him made, he may delay granting a certificate till his next county court, by whom the causes of his suspicion shall be heard and adjudged, in presence of the suspected person, if he shall think fit to appear and make his defence, and according to the judgment of the court such justice shall grant or refuse his certificate.

SEC. IV. THE clerks of the several county courts shall return to every session of Assembly a true list of the names of every person to whom any of the said rewards have been allowed in their county levy, and the names of the justices granting certificates for the same, to the end such county may be repaid in the next * public levy, which shall be accordingly done, except the additional reward which shall be defrayed by the counties above mentioned respectively.

1748. ch. 40.

May 1782.
ch. 37.

ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

PROVIDED nevertheless, That nothing herein contained shall be construed to affect any right which may have accrued or been vested before the commencement of this act.

A BILL repealing under certain Restrictions, all Statutes or Acts of the Parliament of Great-Britain, heretofore in Force within this Commonwealth.

SECTION I. WHEREAS by an ordinance of convention, passed in the month of May, in the year of our lord one thousand seven hundred and seventy-six, intituled, "An ordinance to enable the present magistrates and officers to continue the administration of justice, and for settling the general mode of proceedings in criminal and other cases, till the same can be more amply provided for;" it is among other things ordained, "That the common law of England, all statutes or acts of parliament made in aid of the common law, prior to the fourth year of the reign of king James the first, and which are of a general nature, not local to that kingdom, together with the several acts of the General Assembly of this colony now in force, so far as the same may consist with the several ordinances, declarations, and resolutions of the general convention, shall be the rule of decision, and shall be considered in full force, until the same shall be altered by the legislative power of this colony."

May 1776.
ch. 5.

SEC. II. AND whereas the good people of this commonwealth may be enfeebled by an ignorance of acts of parliament, which have never been published in any collection of the laws, and it hath been thought adviseable by the General Assembly during their present session, specially to enact such of the said statutes as to them appear worthy of adoption, and do not already make a part of the public code of the laws of Virginia :

1789. ch. 17.

SEC. III. BE it therefore enacted by the General Assembly, That so much of the above recited ordinance as relates to any statute or act of parliament, shall be, and is hereby repealed : And that no such statute or act of parliament shall have any force or authority within this commonwealth.

ib.

* There being no public levies laid at present, the Legislature will provide some other mode for reimbursing the counties.

1789. ch. 17. SECT. IV. *PROVIDED* always, That all rights arising under any such statute or act, and all crimes and offences committed against the same, at any time before the commencement of this act, shall remain in the same condition in all respects as if this act had never been made.

SECT. V. SAVING, moreover, to this commonwealth, and to all and every person and persons, bodies politic and corporate, and each and every of them, the right and benefit of all and every writ and writs, remedial and judicial, which might have been legally obtained from, or sued out of any court or jurisdiction of this commonwealth, or the office of the clerk of any such court or jurisdiction, before the commencement of this act, in like manner, with the like proceedings thereupon to be had, as fully, and amply, to all intents, constructions, and purposes, as if this act had never been made; any thing herein contained to the contrary, or seeming to the contrary, notwithstanding.

A BILL for supplying the defect of repealing Clauses to certain Acts therein mentioned.

SECTION I. **W**HEREAS the General Assembly at their present session, have directed a re-publication of the laws of this commonwealth, which are of a general concern, among which certain acts subsequent in their date to other acts on the same subject, have no repealing clauses, and inconveniencies may arise from the omission thereof :

SEC. II. *BE it therefore enacted*, That all and every act and acts, clause and clauses, part and parts of acts, antecedent to, and within the purview of, an act passed by the General Assembly of this Commonwealth, at their session in October one thousand seven hundred and eighty-five, intituled, "An act to prevent the circulation of private bank notes;" one other act passed at the same session, intituled, "An act concerning estrays;" one other act of the same session, intituled, "An act concerning public roads;" and one act passed at their session in the year one thousand seven hundred and eighty-six, intituled, "An act against usury;" one other act of the same session, intituled, "An act prescribing a method of protesting inland bills of exchange, and allowing assignees of obligations to bring actions thereupon in their own names;" and one other act passed in their session of one thousand seven hundred eighty-seven, intituled, "An act for the relief of persons who have been or may be injured by the destruction of the records of county courts," for so much of every such act, clause, or part of act as relates to any subject, matter, or thing within all or any of the provisions in the said recited acts, or either of them contained, shall be, and the same are hereby as fully repealed, as if the said recited acts had severally contained a clause repealing former acts on the same subject.

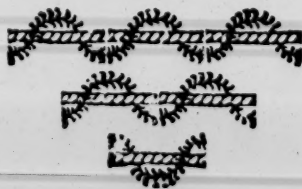


TABLE of the foregoing BILLS.

No.		PAGE.	
55	A BILL reducing into one, the several acts for unlading ballast, and burial of dead bodies from on board ships; and prohibiting the putting sick or disabled seamen and servants on shore, without providing for their maintenance,	3	<i>Ballast &c</i>
56	To prevent the malicious burning tobacco houses, and other houses and places; for taking away clergy from certain offences; and for punishing accessories to felonies and receivers of stolen goods,	4	<i>Arson &c</i>
57	Declaring who shall be deemed citizens of this commonwealth, and pointing out the mode by which the right of citizenship may be acquired or relinquished,	6	<i>Citizens</i>
58	Concerning coin,	8	<i>Coin</i>
59	Against divulgers of false news,	1b	<i>False news</i>
60	Reducing into one, the several acts for the better preservation of the breed of deer, and preventing unlawful hunting,	1b	<i>Deer</i>
61	Concerning the right of entry; and giving remedy against collusive judgments of lands, and wrongful alienations thereof, in certain cases,	11	<i>Entry in lands</i>
62	Reducing into one, the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees, and county levies,	12	<i>Fees &c</i>
63	Reducing into one, the several acts for the settlement and regulation of ferries,	24	<i>Ferries</i>
64	Reducing into one, the several acts for regulating the inspection of flour and bread,	32	<i>Flour & bread</i>
65	Directing the mode of suing out and prosecuting writs of Habeas Corpus,	34	<i>Habeas Corpus</i>
66	Reducing into one, the several acts for improving the breed of horses,	36	<i>Horses</i>
67	Reducing into one, the several acts making provision for the restraint, support and maintenance of idiots and lunatics; and the preservation and management of their estates,	37	<i>Idiots &c</i>
68	To regulate impresses,	39	<i>Impresses</i>
69	Concerning tributary Indians,	40	<i>Indians</i>
70	Declaring that joint-tenancy may be pleaded in abatement,	1b	<i>Joint-tenancy</i>
71	Reducing into one, the several acts concerning the inspection of lumber,	41	<i>Lumber</i>
72	Providing that the exception of non-tenure of parcel, shall not abate the whole writ,	42	<i>Non-tenure</i>
73	Providing a method to help and speed poor persons in their suits,	1b	<i>Poor persons to sue</i>
74	To reduce into one, the several acts for regulating pilots, and ascertaining their fees,	43	<i>Pilots</i>
75	Reducing into one, the several acts for regulating the inspection of pork, beef, tar, pitch, and turpentine,	46	<i>Pork, beef &c</i>
76	Reducing into one, the several acts to oblige vessels coming from foreign parts to perform quarantine,	48	<i>Quarantine</i>
77	Declaring the punishment in case of rape,	50	<i>Rape</i>
78	Reducing into one, the several acts for apprehending and securing runaways,	1b	<i>Runaways</i>
79	Reducing into one, the several acts concerning servants,	51	<i>Servants</i>
80	Reducing into one, the several acts in force concerning the sinking fund,	53	<i>Sinking fund</i>

	No.	PAGE.
<i>Theft & Forgery</i>	81	Reducing into one, the several acts for punishing persons guilty of certain thefts and forgeries, 54
<i>Levy, births & deaths</i>	82	Concerning tithables ; directing the mode of laying and collecting the county levy ; and of registering births and deaths, 56
<i>Tobacco</i>	83	Reducing into one, the several Acts of Assembly, for the inspection of tobacco, 59
<i>Treason</i>	84	Declaring what shall be treason ; for punishing certain offences injurious to the tranquility of the commonwealth, and concerning felonies and offences committed out of the jurisdiction of the same, 79
<i>Trespasses</i>	85	For preventing trespasses ; declaring what shall be deemed a lawful inclosure ; for preventing infection of the horned cattle ; and losses from drivers thereof passing through the commonwealth, 80
<i>Infection of Horned Cattle</i>		
<i>Vice & religion &c</i>	86	For the effectual suppression of vice, and punishing the disturbers of religious worship, and sabbath breakers, 83
<i>Waste</i>	87	Concerning waste, 84
<i>Weights &c</i>	88	Concerning weights and measures, 85
<i>Wolves</i>	89	Giving a reward for killing Wolves, 86
<i>90</i>		
<i>British statutes</i>		Repealing under certain restrictions, all statutes or acts of the parliament of Great-Britain, heretofore in force within this commonwealth, 87
<i>repealing clauses</i>	91	For supplying the defect of repealing clauses to certain acts therein mentioned, 88

